

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation Against:

**RX UNLIMITED PHARMACY, BRIAN PAUL SOHAN GOLDSTEIN,
PAUL GOLDSTEIN - MEMBERS,
Pharmacy Permit Number PHY 50302
Sterile Compounding Permit Number LSC 99642;**

and

**ANDREAS GOMAROONI,
Registered Pharmacist License Number RPH 57164
Advanced Practice Pharmacist License No. APH 10609;**

and

**BRIAN PAUL SOHAN GOLDSTEIN,
Pharmacy Technician Registration No. TCH 101671;**

and

**BENJAMIN FRIEDMAN,
Registered Pharmacist License No. RPH 32590;**

and

**RX UNLIMITED PHARMACY
BRIAN PAUL SOHAN GOLDSTEIN-MEMBERS,
Pharmacy Permit No. 50301**

and

**STEPHANIE SOFIA AVERBUKH,
Registered Pharmacist License No. RPH 67571**

Respondents.

Agency Case No. 7077

OAH No. 2021120301

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on July 6, 2022.

It is so ORDERED on June 6, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 Against:

13 **RX UNLIMITED PHARMACY,**
14 **BRIAN PAUL SOHAN GOLDSTEIN,**
PAUL GOLDSTEIN - MEMBERS
15 16673 Roscoe Blvd.
North Hills, CA 91343

16 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642,

17 **and**

18
19 **ANDREAS GOMAROONI,**
115 E. Del Mar Boulevard #205
20 Pasadena, CA 91105

21 Registered Pharmacist License No. RPH 57164
Advanced Practice Pharmacist License No.
22 APH 10609

23 **and**

24 **BRIAN PAUL SOHAN GOLDSTEIN,**
25 8641 Wilshire Blvd, Suite 120
Beverly Hills, CA 90211

26 Pharmacy Technician Registration No. TCH
27 101671

28 *(Continued on next page)*

Case No. 7077

OAH No. 2021120301

**STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
PHARMACIST LICENSE NO. RPH 32590**

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Registered Pharmacist License No. RPH 32590

RX UNLIMITED PHARMACY
BRIAN PAUL SOHAN GOLDSTEIN -
MEMBERS
 8641 Wilshire Blvd, Suite 120
 Beverly Hills, CA 90211

and

Registered Pharmacist License No. RPH 67571

Respondents.

PARTIES

///

///

2. Benjamin Friedman (Respondent) is represented in this proceeding by attorney Herbert Weinberg, whose address is Fenton Law Group, LLP, 1990 S Bundy Drive Suite 777, Los Angeles, CA 90025.

3. On or about November 27, 1978, the Board issued Registered Pharmacist License Number RPH 32590 to Respondent. The Registered Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2023, unless renewed.

4. In a disciplinary action entitled "In the Matter of the Accusation Against Ben Friedman, Inc. dba Boulevard Pharmacy, Ben Friedman, President and Pharmacist in Charge, and Susan Friedman, Secretary; Benjamin Friedman; and Susan Friedman" Case No. 2000-C, the Board of Pharmacy issued a Decision and Order effective on February 7, 2002, in which Respondent Friedman's Pharmacy Permit Number PHY 30415 and Pharmacist License Number RPH 32590 were publicly reprovved. A copy of that Decision and Order is attached as Exhibit D and is incorporated herein by reference.

JURISDICTION

5. First Amended Accusation No. 7077 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on October 28, 2021. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. A copy of First Amended Accusation No. 7077 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 7077. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own

1 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
2 production of documents; the right to reconsideration and court review of an adverse decision;
3 and all other rights accorded by the California Administrative Procedure Act and other applicable
4 laws.

5 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
6 every right set forth above.

7 **CULPABILITY**

8 9. Respondent understands and agrees that the charges and allegations in First Amended
9 Accusation Number 7077, if proven at a hearing, constitute cause for imposing discipline upon
10 his Pharmacist License.

11 10. For the purpose of resolving First Amended Accusation Number 7077 without the
12 expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,
13 Complainant could establish a factual basis for the charges in the First Amended Accusation, and
14 Respondent hereby gives up his right to contest those charges.

15 11. Respondent understands that by signing this stipulation, he enables the Board to issue
16 an order accepting the surrender of his Pharmacist License without further process.

17 **CONTINGENCY**

18 12. This stipulation shall be subject to approval by the Board. Respondent understands
19 and agrees that counsel for Complainant and the staff of the Board may communicate directly
20 with the Board regarding this stipulation and surrender, without notice to or participation by
21 Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that he
22 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
23 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
24 the Stipulated Surrender of License and Order shall be of no force or effect, except for this
25 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
26 be disqualified from further action by having considered this matter.

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13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Pharmacist License No. RPH 32590, issued to Respondent Benjamin Friedman (Respondent), is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board. Respondent understands and acknowledges that for purposes of Business and Professions Code section 4307, this stipulated surrender is treated the same as a revocation of licensure.

2. Respondent shall lose all rights and privileges as a pharmacist in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in First Amended Accusation No.

1 7077 shall be deemed to be true, correct and admitted by Respondent when the Board determines
2 whether to grant or deny the application or petition.

3 5. Respondent shall pay the agency its costs of investigation and enforcement in the
4 amount of \$15,000.00 prior to applying for a new or reinstated license.

5 6. If Respondent should ever apply or reapply for a new license or certification, or
6 petition for reinstatement of a license, by any other health care licensing agency in the State of
7 California, all of the charges and allegations contained in First Amended Accusation No. 7077
8 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
9 of Issues or any other proceeding seeking to deny or restrict licensure.

10 7. Respondent shall not apply for licensure or petition for reinstatement for three (3)
11 years from the effective date of the Board's Decision and Order.

12
13 **ACCEPTANCE**

14 I have carefully read the above Stipulated Surrender of License and Order and have fully
15 discussed it with my attorney. I understand the stipulation and the effect it will have on my
16 Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily,
17 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
18 Pharmacy.

19
20 DATED: _____
21 BENJAMIN FRIEDMAN
22 *Respondent*

23 I have read and fully discussed with Respondent Benjamin Friedman the terms and
24 conditions and other matters contained in this Stipulated Surrender of License and Order. I
25 approve its form and content.

26 DATED: _____
27 HERBERT WEINBERG
28 *Attorney for Respondent*

1 7077 shall be deemed to be true, correct and admitted by Respondent when the Board determines
2 whether to grant or deny the application or petition.

3 5. Respondent shall pay the agency its costs of investigation and enforcement in the
4 amount of \$15,000.00 prior to applying for a new or reinstated license.

5 6. If Respondent should ever apply or reapply for a new license or certification, or
6 petition for reinstatement of a license, by any other health care licensing agency in the State of
7 California, all of the charges and allegations contained in First Amended Accusation No. 7077
8 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
9 of Issues or any other proceeding seeking to deny or restrict licensure.

10 7. Respondent shall not apply for licensure or petition for reinstatement for three (3)
11 years from the effective date of the Board's Decision and Order.

12 **ACCEPTANCE**

13 I have carefully read the above Stipulated Surrender of License and Order and have fully
14 discussed it with my attorney. I understand the stipulation and the effect it will have on my
15 Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily,
16 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
17 Pharmacy.

18
19 DATED: 2/24/2022


BENJAMIN FRIEDMAN
Respondent

21
22 I have read and fully discussed with Respondent Benjamin Friedman the terms and
23 conditions and other matters contained in this Stipulated Surrender of License and Order. I
24 approve its form and content.

25
26 DATED: 2/24/2022


HERBERT WEINBERG
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
NANCY A. KAISER
Supervising Deputy Attorney General

KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: February 10, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
NANCY A. KAISER
Supervising Deputy Attorney General



KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 7077

1 ROB BONTA
Attorney General of California
2 NANCY A. KAISER
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6301
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 7077

13 **RX UNLIMITED PHARMACY,**
14 **BRIAN PAUL SOHAN GOLDSTEIN, PAUL**
15 **GOLDSTEIN - MEMBERS**
16 16673 Roscoe Blvd.
North Hills, CA 91343

**FIRST AMENDED
ACCUSATION**

17 Pharmacy Permit No. PHY 50302
18 Sterile Compounding Permit No. LSC 99642,

19 **and**

20 **ANDREAS GOMAROONI,**
21 115 E. Del Mar Boulevard #205
Pasadena, CA 91105

22 Registered Pharmacist License No. RPH 57164
23 Advanced Practice Pharmacist License No. APH 10609

24 **and**

25 **BRIAN PAUL SOHAN GOLDSTEIN,**
26 8641 Wilshire Blvd, Suite 120
Beverly Hills, CA 90211

27 Pharmacy Technician Registration No. TCH 101671

28 **and**

(Continued on next page)

BENJAMIN FRIEDMAN,
31902 Foxfield Drive
Westlake Village, CA 91361

Registered Pharmacist License No. RPH 32590

and

RX UNLIMITED PHARMACY
BRIAN PAUL SOHAN GOLDSTEIN - MEMBERS
8641 Wilshire Blvd, Suite 120
Beverly Hills, CA 90211

Pharmacy Permit No. PHY 50301

and

STEPHANIE SOFIA AVERBUKH,
13443 Debby St.
Valley Glen, CA 91401

Registered Pharmacist License No. RPH 67571

Respondents.

Complainant alleges:

PARTIES

1. Anne Sodergren (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

Rx Unlimited Pharmacy, LLC, DBA Rx Unlimited Pharmacy

Original Pharmacy Permit No. 50302

2. On or about June 28, 2010, the Board issued Pharmacy Permit Number PHY 50302 to Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member (Respondent Pharmacy 50302). The Pharmacy Permit was in full force and

1 effect at all times relevant to the charges brought herein and will expire on June 1, 2022, unless
2 renewed.

3 3. In a disciplinary action entitled "In the Matter of the Third Amended Accusation and
4 Petition to Revoke Probation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy;
5 Brian Paul Sohan Goldstein, Paul Ray Goldstein, Clifton Eugene Braddy, Brian Paul Sohan
6 Goldstein, and Stephanie Sophia Averbukh", Case No. 6319, the Board of Pharmacy issued a
7 Decision and Order effective on July 29, 2020, in which probation as to Respondent Pharmacy
8 50302's Pharmacy Permit was extended by four (4) years beyond its original expiration date of
9 March 13, 2022 – until March 13, 2026, with certain terms and conditions. A copy of that
10 Decision and Order is attached as Exhibit A and is incorporated herein by reference.

11 4. In a disciplinary action entitled "In the Matter of the Accusation Against Rx
12 Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567,
13 the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which
14 Respondent Pharmacy 50302's Pharmacy Permit was revoked. However, the revocation was
15 stayed, and Respondent Pharmacy 50302's Pharmacy Permit was placed on probation for five (5)
16 years, with certain terms and conditions. A copy of that Decision and Order is attached as Exhibit
17 B and is incorporated herein by reference.

18 **Sterile Compounding Permit**

19 5. On or about September 28, 2010, the Board issued Sterile Compounding Permit
20 Number LSC 99642 to Respondent Pharmacy 50302. The Sterile Compounding Permit was in
21 full force and effect at all times relevant to the charges brought herein, and will expire on June 1,
22 2022, unless renewed.

23 6. In a disciplinary action entitled "In the Matter of the Third Amended Accusation and
24 Petition to Revoke Probation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy;
25 Brian Paul Sohan Goldstein, Paul Ray Goldstein, Clifton Eugene Braddy, Brian Paul Sohan
26 Goldstein, and Stephanie Sophia Averbukh", Case No. 6319, the Board of Pharmacy issued a
27 Decision and Order effective on July 29, 2020, in which probation as to Respondent Pharmacy
28 50302's Sterile Compounding Permit was extended by four (4) years beyond its original

1 expiration date of March 13, 2022 – until March 13, 2026, with certain terms and conditions. A
2 copy of that Decision and Order is attached as Exhibit A and is incorporated herein by reference.

3 **Andreas Gomarooni**

4 **Pharmacist-in-Charge - Permit No PHY 50302 (February 21, 2018 – June 14, 2018)**

5 7. On or about July 27, 2005, the Board issued Registered Pharmacist License Number
6 RPH 57164 to Andreas Gomarooni (Respondent Gomarooni). The Registered Pharmacist
7 License was in full force and effect at all times relevant to the charges brought herein and will
8 expire on September 30, 2022, unless renewed.

9 8. On or about October 31, 2019, the Board issued Advanced Practice Pharmacist
10 License Number APH 10609 to Respondent Gomarooni. The Advanced Practice Pharmacist
11 License will expire on September 30, 2022, unless renewed.

12 **Brian Paul Sohan Goldstein**

13 **Original Pharmacy Technician**

14 9. On or about May 4, 2010, the Board issued Pharmacy Technician Registration
15 Number TCH 101671 to Brian Paul Sohan Goldstein (Respondent Goldstein). The Pharmacy
16 Technician Registration, which was in full force and effect at all times relevant to the charges
17 brought herein, expired on September 30, 2021 and has not been renewed, and is currently
18 suspended effective August 5, 2021.

19 10. In a disciplinary action entitled "In the Matter of the Third Amended Petition to
20 Revoke Probation and Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited
21 Pharmacy; Brian Paul Sohan Goldstein, member; Clifton Eugene Braddy; Brian Paul Sohan
22 Goldstein; and Stephanie Averbukh" Case No. 6319, the Board of Pharmacy issued a Decision
23 and Order effective on July 29, 2020, in which Respondent Goldstein's Pharmacy Technician
24 License No. TCH 101671 was revoked. However, the revocation was stayed, and Respondent
25 Goldstein's Pharmacy Technician License was placed on probation for three (3) years, with
26 certain terms and conditions. A copy of that Decision and Order is attached as Exhibit C and is
27 incorporated herein by reference.

28 ///

1 **Benjamin Friedman**

2 11. On or about November 27, 1978, the Board issued Registered Pharmacist License
3 Number RPH 32590 to Benjamin Friedman (Respondent Friedman). The Registered Pharmacist
4 License was in full force and effect at all times relevant to the charges brought herein and will
5 expire on April 30, 2023, unless renewed.

6 12. In a disciplinary action entitled “In the Matter of the Accusation Against Ben
7 Friedman, Inc. dba Boulevard Pharmacy, Ben Friedman, President and Pharmacist in Charge, and
8 Susan Friedman, Secretary; Benjamin Friedman; and Susan Friedman” Case No. 2000-C, the
9 Board of Pharmacy issued a Decision and Order effective on February 7, 2002, in which
10 Respondent Friedman’s Pharmacy Permit Number PHY 30415 and Pharmacist License Number
11 RPH 32590 were publicly reprovved. A copy of that Decision and Order is attached as Exhibit D
12 and is incorporated herein by reference.

13 **Rx Unlimited Pharmacy**

14 **Original Pharmacy Permit No. 50301**

15 13. On or about June 28, 2010, the Board issued Pharmacy Permit Number PHY 50301 to
16 Rx Unlimited, Brian Paul Sohan Goldstein, member (Respondent Pharmacy 50301). The
17 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein
18 and will expire on June 1, 2022, unless renewed.

19 **Stephanie Sophia Averbukh**

20 **Pharmacist-in-Charge - Permit No PHY 50302 (November 9, 2015 – January 19, 2018)**
21 **Pharmacist-in-Charge - Permit No PHY 50301 (July 30, 2018 – July 28, 2020)**

22 14. On or about August 16, 2012, the Board issued Registered Pharmacist License
23 Number RPH 67571 to Stephanie Sophia Averbukh (Respondent Averbukh). The Registered
24 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on January 31, 2022, unless renewed.

26 15. In a disciplinary action entitled "In the Matter of the Third Amended Petition to
27 Revoke Probation and Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited
28 Pharmacy Brian Paul Sohan Goldstein, member; Clifton Eugene Braddy; Brian Paul Sohan

Goldstein; and Stephanie Averbukh" Case No. 6319, the Board of Pharmacy issued a Decision and Order effective on July 29, 2020, in which Respondent Averbukh's Pharmacist License No. RPH 67571 was revoked. However, the revocation was stayed, and Respondent Averbukh's Pharmacist License was placed on probation for two (2) years, with certain terms and conditions. A copy of that Decision and Order is attached as Exhibit E and is incorporated herein by reference.

JURISDICTION AND STATUTORY PROVISIONS

16. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

17. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

18. Section 4300 of the Code states, in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper."

....

1 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
2 certificate of licensure for any violation of the terms and conditions of probation. Upon
3 satisfactory completion of probation, the board shall convert the probationary certificate to a
4 regular certificate, free of conditions."

5 19. Section 4307 of the Code states, in pertinent part:

6 “(a) Any person who has been denied a license or whose license has been revoked or is
7 under suspension, or who has failed to renew his or her license while it was under suspension, or
8 who has been a manager, administrator, owner member, officer, director, associate, partner, or
9 any other person with management or control of any partnership, corporation, firm, or association
10 whose application for a license has been denied or revoked, is under suspension or has been
11 placed on probation, and while acting as the manger, administrator, owner, member, officer,
12 director, associate, partner, or any other person with management or control had knowledge or
13 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
14 placed on probation, shall be prohibited from serving as a manger, administrator, owner, member,
15 officer, director, associate, partner, or any other person with management or control of a licensee
16 as follows:

17 “(1) Where a probationary license is issued or where an existing license is placed on
18 probation, this prohibition shall remain in effect for a period not to exceed five years.

19 “(2) Where the license is denied or revoked, the prohibition shall continue until the license
20 is issued or reinstated.”

21 20. Section 810 states, in pertinent part:

22 “(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including
23 suspension or revocation of a license or certificate, for a health care professional to do any
24 of the following in connection with his or her professional activities:

25 “(1) Knowingly present or cause to be presented any false or fraudulent claim for the
26 payment of a loss under a contract of insurance.

27 “(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the
28 same, or to allow it to be presented or used in support of any false or fraudulent claim.

1 “(b) It shall constitute cause for revocation or suspension of a license or certificate for a
2 health care professional to engage in any conduct prohibited under Section 1871.4 of the
3 Insurance Code or Section 549 or 550 of the Penal Code.

4 21. Section 4019 states:

5 “An “order”, entered on the chart or medical record of a patient registered in a hospital or a
6 patient under emergency treatment in the hospital, by or on the order of a practitioner authorized
7 by law to prescribe drugs, shall be authorization for the administration of the drug from hospital
8 floor or ward stocks furnished by the hospital pharmacy or under licensure granted under Section
9 4056, and shall be considered to be a prescription if the medication is to be furnished directly to
10 the patient by the hospital pharmacy or another pharmacy furnishing prescribed drugs for hospital
11 patients; provided that the chart or medical record of the patient contains all of the information
12 required by Sections 4040 and 4070 and the order is signed by the practitioner authorized by law
13 to prescribe drugs, if he or she is present when the drugs are given. If he or she is not present
14 when the drugs are given, the order shall be signed either by the attending physician responsible
15 for the patient’s care at the time the drugs are given to the patient or by the practitioner who
16 ordered the drugs for the patient on the practitioner’s next visit to the hospital.”

17 22. Section 4036.5 states:

18 “Pharmacist-in-charge” means a pharmacist proposed by a pharmacy and approved by the
19 board as the supervisor or manager responsible for ensuring the pharmacy’s compliance with all
20 state and federal laws and regulations pertaining to the practice of pharmacy.”

21 23. Section 4040 states, in pertinent part:

22

23 “(c) “Electronic transmission prescription” includes both image and data prescriptions.
24 “Electronic image transmission prescription” means any prescription order for which a facsimile
25 of the order is received by a pharmacy from a licensed prescriber. “Electronic data transmission
26 prescription” means any prescription order, other than an electronic image transmission
27 prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

28 ///

1 24. Section 4070 states, in pertinent part:

2 “(a) Except as provided in Section 4019 and subdivision (b), an oral or an electronic data
3 transmission prescription as defined in subdivision (c) of Section 4040 shall as soon as
4 practicable be reduced to writing by the pharmacist and shall be filled by, or under the direction
5 of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number,
6 license classification, federal registry number of the prescriber or the address of the patient or
7 patients if the information is readily retrievable in the pharmacy.

8 “(b) A pharmacy receiving an electronic transmission prescription shall not be required to
9 reduce that prescription to writing or to hard copy form if, for three years from the last date of
10 furnishing pursuant to that prescription or order, the pharmacy is able, upon request by the board,
11 to immediately produce a hard copy report that includes for each date of dispensing of a
12 dangerous drug or dangerous device pursuant to that prescription or order: (1) all of the
13 information described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a)
14 of Section 4040, and (2) the name or identifier of the pharmacist who dispensed the dangerous
15 drug or dangerous device. This subdivision shall not apply to prescriptions for controlled
16 substances classified in Schedule II, III, IV, or V, except as permitted pursuant to Section 11164.5
17 of the Health and Safety Code.”

18 25. Section 4113 states, in pertinent part:

19

20 “(c) The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all
21 state and federal laws and regulations pertaining to the practice of pharmacy.”

22 26. Section 4156 states:

23 “A pharmacy corporation shall not do, or fail to do, any act where doing or failing to do the
24 act would constitute unprofessional conduct under any statute or regulation. In the conduct of its
25 practice, a pharmacy corporation shall observe and be bound by the laws and regulations that
26 apply to a person licensed under this chapter.”

27 ///

28 ///

1 27. Section 4301 states, in pertinent part:

2 “The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
4 not limited to, any of the following:

5

6 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
7 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
8 whether the act is a felony or misdemeanor or not.”

9 “(g) Knowingly making or signing any certificate or other document that falsely represents
10 the existence or nonexistence of a state of facts.”

11

12 “(j) The violation of any of the statutes of this state, of any other state, or of the United
13 States regulating controlled substances and dangerous drugs.”

14

15 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable
17 federal and state laws and regulations governing pharmacy, including regulations established by
18 the board or by any other state or federal regulatory agency.

19

20 “(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the
21 board.”

22 28. Section 4330 states:

23 “(a) Any person who has obtained a license to conduct a pharmacy, who fails to place in
24 charge of the pharmacy a pharmacist, or any person, who by himself or herself, or by any other
25 person, permits the compounding or dispensing of prescriptions, or the furnishing of dangerous
26 drugs, in his or her pharmacy, except by a pharmacist, or as otherwise provided in this chapter, is
27 guilty of a misdemeanor.

28 ///

1 “(b) Any pharmacy owner who commits any act that would subvert or tend to subvert the
2 efforts of the pharmacist-in-charge to comply with the laws governing the operation of the
3 pharmacy is guilty of a misdemeanor.”

4 29. Penal Code section 476a states, in pertinent part:

5 “(a) Any person who, for himself or herself, as the agent or representative of another, or as
6 an officer of a corporation, willfully, with intent to defraud, makes or draws or utters or delivers a
7 check, draft, or order upon a bank or depository, a person, a firm, or a corporation, for the
8 payment of money, knowing at the time of that making, drawing, uttering, or delivering that the
9 maker or drawer or the corporation has not sufficient funds in, or credit with the bank or
10 depository, person, firm, or corporation, for the payment of that check, draft, or order and all
11 other checks, drafts, or orders upon funds then outstanding, in full upon its presentation, although
12 no express representation is made with reference thereto, is punishable by imprisonment in a
13 county jail for not more than one year, or pursuant to subdivision (h) of Section 1170.”

14 30. Penal Code section 550 states, in pertinent part:

15 “(a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire with any
16 person to do any of the following:

17

18 “(6) Knowingly make or cause to be made any false or fraudulent claim for payment of a
19 health care benefit.”

20 “(7) Knowingly submit a claim for a health care benefit that was not used by, or on behalf
21 of, the claimant.”

22 **REGULATORY PROVISIONS**

23 31. California Code of Regulations, title 16, section 1709.1 states, in pertinent part:

24 “(a) The pharmacist-in-charge of a pharmacy shall be employed at that location and shall
25 have responsibility for the daily operation of the pharmacy.

26 “(b) The pharmacy owner shall vest the pharmacist-in-charge with adequate authority to
27 assure compliance with the laws governing the operation of a pharmacy.”

28 ///

1 32. California Code of Regulations, title 16, section 1714 states, in pertinent part:

2

3 “(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and
4 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.
5 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
6 of pharmacy.

7

8 “(d) Each pharmacist while on duty shall be responsible for the security of the prescription
9 department, including provisions for effective control against theft or diversion of dangerous
10 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy
11 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.”

12 33. California Code of Regulations, title 16, section 1717 states, in pertinent part:

13

14 “(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce
15 it to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription
16 is then dispensed by another pharmacist, the dispensing pharmacist shall also initial the
17 prescription to identify him or herself. All orally transmitted prescriptions shall be received and
18 transcribed by a pharmacist prior to compounding, filling, dispensing, or furnishing. Chart orders
19 as defined in section 4019 of the Business and Professions Code are not subject to the provisions
20 of this subsection.”

21 34. California Code of Regulations, title 16, section 1761 states, in pertinent part:

22 “(a) No pharmacist shall compound or dispense any prescription which contains any
23 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
24 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
25 validate the prescription.”

26 ///

27 ///

28 ///

1 35. California Code of Regulations, title 16, section 1773, states, in part:

2 "(a) Unless otherwise directed by the Board in its sole discretion, any pharmacist who is
3 serving a period of probation shall comply with the following conditions:

4 "(1) Obey all laws and regulations substantially related to the practice of Pharmacy."

5 **COST RECOVERY**

6 36. Section 125.3 provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
10 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
11 included in a stipulated settlement.

12 **BOARD INVESTIGATION REPORT DATED JUNE 22, 2020**

13 37. This Board investigation was initiated in direct response to a complaint made to the
14 Board by Respondent Gomarooni on or about May 9, 2018, wherein Respondent Gomarooni,
15 who was the Pharmacist-in-Charge (PIC) at Respondent Pharmacy 50302 at the time, emailed the
16 Board regarding issues he had observed at Respondent Pharmacy 50302. Respondent Gomarooni
17 included copies of emails between himself and Respondent Goldstein, owner of both Respondent
18 Pharmacy 50302 and Respondent Pharmacy 50301, with his complaint to the Board. These
19 emails, in summary, show that Respondent Gomarooni had determined there were medications
20 billed under the pharmacy's NCPDP number but not run through the pharmacy's PK software.
21 Respondent Goldstein's email response to Respondent Gomarooni's email stated the following:
22 "No medications have been dispensed check the email from legal, not doing anything the attorney
23 hasn't approved."

24 38. Respondent Gomarooni thereafter responded to Respondent Goldstein's email by
25 asking him if Respondent Pharmacy 50302 was billing and someone else was
26 receiving/dispensing medications, the identity of the involved patients, why he (Respondent
27 Gomarooni) was not aware of what was going on in this regard, and whether or not Respondent
28 Pharmacy 50302 was legally allowed to practice in this manner. Respondent Gomarooni further

1 informed Respondent Goldstein that he (Respondent Gomarooni) needed to double check with
2 the Board before proceeding. Respondent Gomarooni also forwarded a second email to the Board
3 that confirmed that Respondent Gomarooni was placing Respondent Friedman under
4 investigation regarding his relationship with Respondent Pharmacy 50302 and his (Respondent
5 Friedman's) marketing activities. That second email further showed that Respondent Friedman
6 was no longer authorized to be present in Respondent Pharmacy 50302 without Respondent
7 Gomarooni's permission; that Respondent Friedman needed to return the key fob allowing access
8 to Respondent Pharmacy 50302 to Respondent Gomarooni; that Respondent Friedman was not to
9 introduce himself as a member of Respondent Pharmacy 50302; that Respondent Friedman was
10 stripped of his authoritative rights with respect to Respondent Pharmacy 50302; and that
11 Respondent Friedman was to refrain from engaging in any marketing activities on behalf of
12 Respondent Pharmacy 50302.

13 39. Thereafter, in response to Respondent Gomarooni's complaint referenced above, the
14 Board conducted an investigation regarding Respondent Pharmacy 50302 and Respondent
15 Pharmacy 50301, and their respective Board-licensed employees. As a result of the Board's
16 investigation, the Board Inspector determined that Respondents herein had committed various
17 violations of Pharmacy Law, including, but not limited to Insurance Fraud, by billing and
18 shipping a prescription without patient authorization or a valid patient exam; the dispensing of
19 uncertain prescriptions; the failure to appropriately document telephone prescriptions; the
20 misrepresentation of the position of a pharmacist with a financial stake in the pharmacy; the
21 payment of wages to employees by way of "bad" or invalid checks; other acts of unprofessional
22 conduct; and subversion of the Board's investigation.

23 40. As a result of this investigation, the Board Inspector determined that Respondent
24 Pharmacy 50302 had engaged in the following conduct in violation of Pharmacy Law:

25 a. Respondent Pharmacy 50302 committed acts of deceit, dishonesty, and moral
26 turpitude when it billed for prescriptions that various patients did not need, want or authorize,
27 despite knowing that the patient did not have a valid patient-prescriber exam; was late in paying
28 its employees, and had paid its employees with "bad" and/or invalid checks; had terminated

1 employees for refusing to fill illegitimate prescriptions; and misrepresented and signed statements
2 indicating Respondent Friedman was only acting as a consultant to the pharmacy when he had
3 clear actual involvement and a financial stake in the pharmacy.

4 b. Respondent Pharmacy 50302 committed violated Pharmacy Law as a corporation by
5 engaging in the acts as set forth above in paragraph 33(a).

6 c. Respondent Pharmacy 50302 committed acts of deceit, dishonesty, and moral
7 turpitude by engaging in insurance fraud by allowing unlicensed marketers to contact patients
8 and refer them to a telemedicine doctor to bill prescriptions the patient did not need or authorize
9 and without a valid exam.

10 d. Respondent Pharmacy 50302 committed acts of deceit, dishonesty, and moral
11 turpitude by issuing paychecks to employees on multiple occasions that could not be negotiated
12 due to insufficient funds (i.e. "bad" checks), and by failing to consistently pay its employees in a
13 timely manner.

14 e. Respondent Pharmacy 50302 committed acts that would subvert or tend to subvert the
15 efforts of the PIC to comply with the laws governing the operation of the pharmacy when it
16 prevented its PIC from adequately accessing and supervising the pharmacy in accordance with
17 applicable pharmacy laws. In this regard, Respondent Pharmacy allowed unknown marketers to
18 access the pharmacy software and contact patients for telemedicine prescriptions without the
19 knowledge or authorization of the PIC. In addition, Respondent Pharmacy 50302 prevented the
20 PIC from being able to adequately supervise the pharmacy by keeping the pharmacy's doors
21 closed.

22 f. Respondent Pharmacy 50302 failed to maintain adequate security over its drug stock,
23 as evidenced by its reporting that between February 10, 2018 and June 14, 2018, it could not
24 account for significant losses of multiple types of dangerous drugs. In this regard, Respondent
25 Pharmacy 50302 failed to maintain its facilities, space, fixtures, and equipment so that drugs were
26 able to be safely and properly prepared, maintained, secured and distributed.

27 41. As a result of this investigation, the Board Inspector determined that Respondent
28 Gomarooni had engaged in the following conduct in violation of Pharmacy Law:

1 a. Respondent Gomarooni, as the PIC, failed to maintain adequate security over
2 Respondent Pharmacy 50302's drug stock, as evidenced by its reporting that between February
3 10, 2018 and June 14, 2018, the pharmacy could not account for significant losses of multiple
4 types of dangerous drugs. Further, Respondent Gomarooni failed to install, implement, or have
5 sufficient policies or provisions in place for effective control against theft or diversion of
6 dangerous drugs and devices, and records for such drugs and devices, since possession of one or
7 more keys to the pharmacy where dangerous drugs and controlled substances were kept was not
8 restricted to pharmacists only.

9 42. As a result of this investigation, the Board Inspector determined that Respondent
10 Goldstein had engaged in the following conduct in violation of Pharmacy Law:

11 a. Respondent Goldstein, as a licensed Pharmacy Technician and owner of Respondent
12 Pharmacy 50302, committed acts of deceit, dishonesty, and moral turpitude when he and/or the
13 pharmacy he owns (Respondent Pharmacy 50302) billed for prescriptions that various patients
14 did not need, want or authorize, despite knowing that the patient did not have a valid patient-
15 prescriber exam; was late in paying its employees, and had paid its employees with "bad" and/or
16 invalid checks; had terminated employees for refusing to fill illegitimate prescriptions; and
17 misrepresented and signed statements indicating Respondent Friedman was only acting as a
18 consultant to the pharmacy when he had clear actual involvement and a financial stake in the
19 pharmacy.

20 b. Respondent Goldstein, as a licensed Pharmacy Technician and owner of Respondent
21 Pharmacy 50302, committed insurance fraud by allowing unlicensed marketers to contact patients
22 and refer them to a telemedicine doctor to bill prescriptions the patient did not need or authorize
23 and without a valid exam.

24 c. Respondent Goldstein, as a licensed Pharmacy Technician and owner of Respondent
25 Pharmacy 50302, committed acts of deceit, dishonesty, and moral turpitude by issuing paychecks
26 to employees on multiple occasions that could not be negotiated due to insufficient funds (i.e.
27 "bad" checks), and by failing to consistently pay his pharmacy employees in a timely manner.
28

1 d. Respondent Goldstein, as a licensed Pharmacy Technician and owner of Respondent
2 Pharmacy 50302, committed acts that would subvert or tend to subvert the efforts of the PIC to
3 comply with the laws governing the operation of the pharmacy when he prevented the
4 pharmacy's PIC from being able to adequately access and supervise the pharmacy in accordance
5 with applicable pharmacy laws. In this regard, Respondent Goldstein allowed unknown
6 marketers to access the pharmacy software and contact patients for telemedicine prescriptions
7 without the knowledge or authorization of the PIC. In addition, Respondent Goldstein prevented
8 the PIC from being able to adequately supervise the pharmacy by keeping the pharmacy's doors
9 closed.

10 e. Respondent Goldstein, as a licensed Pharmacy Technician and owner of Respondent
11 Pharmacy 50302, failed to maintain adequate security over the pharmacy's drug stock, as
12 evidenced by Respondent Pharmacy 50302 reporting that between February 10, 2018 and June
13 14, 2018, it could not account for the significant losses of multiple types of dangerous drugs. In
14 this regard, Respondent Goldstein failed to maintain the pharmacy's facilities, space, fixtures, and
15 equipment so that drugs were able to be safely and properly prepared, maintained, secured and
16 distributed.

17 43. As a result of this investigation, the Board Inspector determined that Respondent
18 Friedman had engaged in the following conduct in violation of Pharmacy Law:

19 a. Respondent Friedman, while working as a pharmacist at Respondent Pharmacy
20 50302, committed acts of fraud, deceit, dishonesty, and/or moral turpitude when, unknown to the
21 PIC, he billed for prescriptions that various patients did not need, want or authorize, despite
22 knowing that the patient did not have a valid patient-prescriber exam. In addition, Respondent
23 Friedman also terminated pharmacy employees for refusing to fill illegitimate prescriptions.

24 b. Respondent Friedman, while working as a pharmacist at Respondent Pharmacy
25 50302, committed insurance fraud by allowing unlicensed marketers to contact patients and refer
26 them to a telemedicine doctor to bill for prescriptions the patient did not need or authorize and
27 without a valid exam.

1 c. Respondent Friedman, while working as a pharmacist at Respondent Pharmacy
2 50302, engaged conduct that subverted or attempted to subvert an investigation of the board. In
3 this regard, Respondent Friedman misrepresented and signed statements indicating that he was
4 only acting as a consultant for Respondent Pharmacy 50302, when his business card and email
5 signature called him the Senior Operations Manager, and he had clear involvement and a financial
6 stake in the pharmacy.

7 44. As a result of this investigation, the Board Inspector determined that Respondent
8 Pharmacy 50301 had engaged in the following conduct in violation of Pharmacy Law:

9 a. Respondent Pharmacy 50301 committed acts of deceit, dishonesty, and moral
10 turpitude when it billed for prescriptions that various patients did not need, want or authorize,
11 despite knowing that the patient did not have a valid patient-prescriber exam. In addition,
12 Respondent Pharmacy 50301 terminated employees for refusing to fill illegitimate prescriptions.

13 b. Respondent Pharmacy 50301 violated Pharmacy Law as a corporation by engaging in
14 the acts as set forth above in paragraph 37 (a).

15 c. Respondent Pharmacy 50301 committed insurance fraud by allowing unlicensed
16 marketers to contact patients and refer them to a telemedicine doctor to bill for prescriptions the
17 patient did not need or authorize and without a valid exam.

18 d. Respondent Pharmacy 50301 dispensed prescription numbers 6690674 and 6690688
19 pursuant to multiple check-off box prescriptions where multiple similar medications were also
20 checked-off. In addition, prescription number 6690674 also did not appear to be dated by the
21 prescriber. Furthermore, no documentation was on the prescription clarifying which prescription
22 to fill or the date the prescription was written.

23 45. As a result of this investigation, the Board Inspector determined that Respondent
24 Averbukh, while working as the PIC and/or a pharmacist at Respondent Pharmacy 50301, had
25 engaged in the following conduct in violation of Pharmacy Law:

26 a. During an inspection at Respondent Pharmacy 50301 on October 16, 2018, Board
27 Inspectors located prescription numbers 6689988, 6689989, 6689990, 6689991,
28

6689992,6689993,6689994,6689995, 6689996,6689997, 6689998,6689999, 6690022, 6690028, 6690036, 6690074, 6690076, 6690077, 6690086, 6689977, 6690073, and 6690075 which were designated as telephone prescriptions taken by Respondent Averbukh. These telephone prescriptions were not in Respondent Averbukh's handwriting and did not contain her initials.

b. Respondent Averbukh, while employed as the PIC and/or a pharmacist at Respondent Pharmacy 50301, committed acts of deceit, dishonesty, and moral turpitude when she wrote a statement falsely representing that Respondent Friedman was only acting as a consultant to Respondent Pharmacy 50301 and that she was unaware of any telemedicine activities engaged in by Respondent Pharmacy 50301. However, an Rx Transaction report lists Respondent Averbukh as the dispensing pharmacist on approximately 63 prescriptions for Dr. J.P., who was the telemedicine doctor used by Respondent Pharmacy 50301 to create fraudulent prescriptions.

The majority of these prescriptions show they were "cancelled". Statements provided by another employee of Respondent Pharmacy 50301 to the Board Inspector establish that Respondent Averbukh chose to avoid filling some of these prescriptions because they were suspicious; however, she allowed Respondent Friedman to fill them. Statements given by employees of Respondent Pharmacy 50301 also show that Respondent Averbukh had participated in meetings with outside marketers and that Respondent Averbukh could not prevent or override Respondent Friedman's actions and decisions without risking termination of her employment by Respondent Friedman, who had terminated other pharmacists that had worked at Respondent Pharmacy 50301 in the past. As further evidence of Respondent Averbukh's knowledge of this fraudulent scheme by Respondent Pharmacy 50301, Board Inspectors discovered that Respondent Averbukh was party to an email showing that patient VT had called Respondent Pharmacy 50301 after being contacted by Respondent Pharmacy 50301's marketer and "in-house" physician.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

46. Respondent Pharmacy 50302 is subject to disciplinary action under Code sections 4301, subdivisions (f), and (g), (j), and (o), and 810, subdivision (b), in conjunction with Penal

Code sections 476, subdivision (a), and 550, subdivision (a) (6) and (7), in that Respondent Pharmacy 50302 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates paragraphs 37-40 above as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Insurance Fraud)

47. Respondent Pharmacy 50302 is subject to disciplinary action under Code sections 810, subdivision (b), in conjunction with Penal Code section 550, subdivision (a) (6) and (7), and 4301, subdivisions (f), and (g), in that Respondent Pharmacy 50302 committed insurance fraud, which is an act involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates paragraphs 37-40 above as though set forth fully herein.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct by a Corporation)

48. Respondent Pharmacy 50302 is subject to disciplinary action under Code section 4156 in that it failed to observe and comply with the laws and regulations that apply to a person licensed under this chapter. Complainant hereby incorporates paragraphs 37-40 above as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Failing to Vest Adequate Authority in the PIC and Subverting the PIC)

49. Respondent Pharmacy 50302 is subject to disciplinary action under Code section 4330, subdivision (b), in conjunction with California Code of Regulations, title 16, section 1709.1, subdivision (b), in that it prevented the pharmacy's PIC from being able to adequately access and supervise the pharmacy by allowing unknown marketers to access the pharmacy software and contact patients for telemedicine prescriptions without the knowledge or authorization of the PIC, and for keeping the pharmacy's doors closed. Complainant hereby incorporates paragraphs 37-40 above as though set forth fully herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Operational Standards and Security)**

3 50. Respondent Pharmacy 50302 is subject to disciplinary action under California Code
4 of Regulations, title 16, section 1714, subdivision (b), in that it failed to maintain adequate
5 security over its drug stock, as evidenced by its reporting that between February 10, 2018 and
6 June 14, 2018, it could not account for significant losses of multiple types of dangerous drugs.
7 Complainant hereby incorporates paragraphs 37-40 above as though set forth fully herein.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Operational Standards and Security)**

10 51. Respondent Gomarooni is subject to disciplinary action under California Code of
11 Regulations, title 16, section 1714, subdivision (d), in conjunction with sections 4036.5 and 4113,
12 subdivision (c), in that as PIC of Respondent Pharmacy 50302, he failed to maintain adequate
13 security over its drug stock, as evidenced by its reporting that between February 10, 2018 and
14 June 14, 2018, the pharmacy could not account for significant losses of multiple types of
15 dangerous drugs. Further, Respondent Gomarooni failed to install, implement, or have sufficient
16 policies or provisions in place for effective control against theft or diversion of dangerous drugs
17 and devices, and records for such drugs and devices, in that possession of one or more keys to the
18 pharmacy where dangerous drugs and controlled substances were kept was not restricted to
19 pharmacists only. Complainant hereby incorporates paragraphs 37-39, and 41 above as though
20 set forth fully herein.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or**
23 **Corruption)**

24 52. Respondent Goldstein is subject to disciplinary action under Code sections 4301,
25 subdivisions (f), (g), (j), (o), and (q), and 810, subdivision (b), in conjunction with Penal Code
26 sections 476, subdivision (a), and 550, subdivision (a) (6) and (7), in that Respondent Goldstein,
27 as a Pharmacy Technician and owner of Pharmacy 50302 and Respondent Pharmacy 50301,
28

1 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant
2 hereby incorporates paragraphs 37-39, and 42 above as though set forth fully herein.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Insurance Fraud)**

5 53. Respondent Goldstein is subject to disciplinary action under Code sections 810,
6 subdivision (b), in conjunction with Penal Code section 550, subdivision (a) (6) and (7), and
7 4301, subdivisions (f), and (g), in that Respondent Goldstein, as a Pharmacy Technician and
8 owner of Pharmacy 50302 and Respondent Pharmacy 50301, committed insurance fraud, which
9 is an act involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby
10 incorporates paragraphs 37-39, and 42 above as though set forth fully herein.

11 **NINTH CAUSE FOR DISCIPLINE**

12 **(Failing to Vest Adequate Authority in the PIC and Subverting the PIC)**

13 54. Respondent Goldstein is subject to disciplinary action under Code section 4330,
14 subdivision (b), in conjunction with California Code of Regulations, title 16, section 1709.1,
15 subdivision (b), in that Respondent Goldstein, as owner of Respondent Pharmacy 50302,
16 prevented the PIC of Respondent Pharmacy 50302 from being able to adequately access and
17 supervise the pharmacy by allowing unknown marketers to access the pharmacy software and
18 contact patients for telemedicine prescriptions without the knowledge or authorization of the PIC,
19 and for keeping the pharmacy's doors closed. Complainant hereby incorporates paragraphs
20 37-39, and 42 above as though set forth fully herein.

21 **TENTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or**
23 **Corruption)**

24 55. Respondent Friedman is subject to disciplinary action under Code sections 4301,
25 subdivisions (f), and (g), (j), and (o), and 801, subdivision (b), in conjunction with Penal Code
26 section 550, subdivision (a) (6) and (7), in that Respondent Friedman committed acts involving
27 moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates
28 paragraphs 37-39, and 43 above as though set forth fully herein.

ELEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Insurance Fraud)

56. Respondent Friedman is subject to disciplinary action under Code sections 810, subdivision (b), in conjunction with Penal Code section 550, subdivision (a) (6) and (7), and 4301, subdivisions (f), and (g), in that Respondent Goldstein committed insurance fraud, which is an act involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates paragraphs 37-39, and 43 above as though set forth fully herein

TWELFTH CAUSE FOR DISCIPLINE

(Subverting an Investigation of the Board)

57. Respondent Friedman is subject to disciplinary action under Code section 4301, subdivision (q), in that Respondent Friedman engaged in conduct that subverted or attempted to subvert an investigation of the Board. Complainant hereby incorporates paragraphs 37-39, and 43 above as though set forth fully herein.

THIRTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

58. Respondent Pharmacy 50301 is subject to disciplinary action under Code sections 4301, subdivisions (f), and (g), (j), and (o), in that Respondent Pharmacy 50301 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates paragraphs 37-39, and 44 above as though set forth fully herein.

FOURTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Insurance Fraud)

59. Respondent Pharmacy 50301 is subject to disciplinary action under Code sections 810, subdivision (b), in conjunction with Penal Code section 550, subdivision (a) (6) and (7), and 4301, subdivisions (f), and (g), in that Respondent Pharmacy 50301 committed insurance fraud, which is an act involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates paragraphs 37-39, and 44 above as though set forth fully herein.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct by a Corporation)**

3 60. Respondent Pharmacy 50301 is subject to disciplinary action under Code section
4 4156 in that it failed to observe and comply with the laws and regulations that apply to a person
5 licensed under this chapter. Complainant hereby incorporates paragraphs 37-39, and 44 above as
6 though set forth fully herein.

7 **SIXTEENTH CAUSE FOR DISCIPLINE**

8 **(Erroneous or Uncertain Prescriptions)**

9 61. Respondent Pharmacy 50301 is subject to disciplinary action under California Code
10 of Regulations, title 16, section 1761, subdivision (a), in that Respondent Pharmacy 50301
11 dispensed prescription numbers 6690674 and 6690688 pursuant to multiple checkoff box
12 prescriptions where multiple similar medications were checked off. In addition, prescription
13 number 6690674 also did not appear to be signed by the prescriber, and no documentation was on
14 the prescription clarifying which prescription to fill or the date the prescription was written.
15 Complainant hereby incorporates paragraphs 37-39, and 44 above as though set forth fully herein.

16 **SEVENTEENTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct - Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or**
18 **Corruption)**

19 62. Respondent Averbukh is subject to disciplinary action under Code sections 4301,
20 subdivisions (f), and (g), (j), and (o), in that Respondent Averbukh committed acts involving
21 moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates
22 paragraphs 37-39, and 45 above as though set forth fully herein.

23 **EIGHTEENTH CAUSE FOR DISCIPLINE**

24 **(Subverting an Investigation of the Board)**

25 63. Respondent Averbukh is subject to disciplinary action under Code section 4070,
26 subdivision (q), in that Respondent Averbukh engaged in conduct that subverted or attempted to
27 subvert an investigation of the Board. Complainant hereby incorporates paragraphs 37-39, and 44
28 above as though set forth fully herein.

NINETEENTH CAUSE FOR DISCIPLINE

(Failure to Timely Reduce Oral or Electronic Data Transmission Prescriptions to Writing)

64. Respondent Averbukh is subject to disciplinary action under Code section 4301, subdivision (a), in that Respondent Averbukh processed oral or electronic data transmission prescriptions and failed to reduce them to writing as soon as practicable. Complainant hereby incorporates paragraphs 37-39, and 44 above as though set forth fully herein.

DISCIPLINE CONSIDERATIONS

65. To determine the degree of discipline, if any, to be imposed on Respondent Rx Unlimited Pharmacy's Pharmacy Permit No. PHY 50302, and Sterile Compounding Permit No. LSC 99642 (Respondent Pharmacy 50302), in a disciplinary action entitled "In the Matter of the Third Amended Petition to Revoke Probation and Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member; Clifton Eugene Braddy; Brian Paul Sohan Goldstein; and Stephanie Averbukh" Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on July 29, 2020, in which Respondent Pharmacy 50302's Pharmacy Permit and Sterile Compounding Permit were revoked. However, the revocations were stayed, and Respondent Pharmacy 50302's Pharmacy Permit No. PHY 50302 and Sterile Compounding Permit No. LSC 99642's probations were extended for four (4) years beyond the original expiration date of March 13, 2022 – until March 13, 2026 - with certain terms and conditions.

66. To determine the degree of discipline, if any, to be imposed on Respondent Rx Unlimited Pharmacy (Respondent Pharmacy 50302), in a disciplinary action entitled "In the Matter of the Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which Respondent Rx Unlimited Pharmacy's Pharmacy Permit was revoked. However, the revocation was stayed, and Respondent Pharmacy 50302's Pharmacy Permit No. PHY 50302 and Sterile Compounding Permit No. LSC 99642 were placed on probation for five (5) years, with certain terms and conditions.

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67. To determine the degree of discipline, if any, to be imposed on Respondent Goldstein's Pharmacy Technician License No. TCH 101671, Complainant alleges that in a disciplinary action entitled "In the Matter of the Third Amended Petition to Revoke Probation and Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; Brian Paul Sohan Goldstein, member; Clifton Eugene Braddy; Brian Paul Sohan Goldstein; and Stephanie Averbukh" Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on July 29, 2020, in which Respondent Goldstein's Pharmacy Technician License No. TCH 101671 was revoked. However, the revocation was stayed, and Respondent Goldstein's Pharmacy Technician License was placed on probation for three (3) years, with certain terms and conditions.

68. To determine the degree of discipline, if any, to be imposed on Respondent Friedman's Pharmacist License No. RPH 32590, Complainant alleges that in a disciplinary action entitled "In the Matter of the Accusation Against Ben Friedman, Inc. dba Boulevard Pharmacy, Ben Friedman, President and Pharmacist in Charge, and Susan Friedman, Secretary; Benjamin Friedman; and Susan Friedman" Case No. 2000-C, the Board of Pharmacy issued a Decision and Order effective on February 7, 2002, in which Respondent Friedman's Pharmacy Permit Number PHY 30415 and Pharmacist License Number RPH 32590 were publicly reprovved.

69. To determine the degree of discipline, if any, to be imposed on Respondent Averbukh's Pharmacist License No. RPH 67571, Complainant alleges that in a disciplinary action entitled "In the Matter of the Third Amended Petition to Revoke Probation and Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy Brian Paul Sohan Goldstein, member; Clifton Eugene Braddy; Brian Paul Sohan Goldstein; and Stephanie Averbukh" Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on July 29, 2020, in which Respondent Averbukh's Pharmacist License RPH 67571 was revoked. However, the revocation was stayed, and Respondent Averbukh's Pharmacist License was placed on probation for two (2) years, with certain terms and conditions.

OTHER MATTERS

70. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan

1 Goldstein, member, then Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan
2 Goldstein, member, shall be prohibited from serving as a manager, administrator, owner,
3 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
4 Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is
5 reinstated if it is revoked.

6 71. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
7 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Andreas
8 Gomarooni was serving as a manager, administrator, owner, member, officer, director, associate,
9 partner, or in any other position with management or control, and had knowledge of or
10 knowingly participated in any conduct for which the licensee was disciplined, Andreas
11 Gomarooni shall be prohibited from serving as a manager, administrator, owner, member,
12 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number
13 PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if
14 it is revoked, or until surrendered.

15 72. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
16 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Brian Paul Sohan
17 Goldstein was serving as a manager, administrator, owner, member, officer, director, associate,
18 partner, or in any other position with management or control, and had knowledge of or
19 knowingly participated in any conduct for which the licensee was disciplined, Brian Paul Sohan
20 Goldstein shall be prohibited from serving as a manager, administrator, owner, member, officer,
21 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY
22 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is
23 revoked, or until surrendered.

24 73. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
25 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Benjamin Friedman
26 was serving as a manager, administrator, owner, member, officer, director, associate, partner, or
27 in any other position with management or control, and had knowledge of or knowingly
28 participated in any conduct for which the licensee was disciplined, Benjamin Friedman shall be

1 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
2 or partner of a licensee for five years if Pharmacy Permit Number PHY 50302 is placed on
3 probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is revoked, or until
4 surrendered.

5 74. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
6 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Stephanie Sophia
7 Averbukh was serving as a manager, administrator, owner, member, officer, director, associate,
8 partner, or in any other position with management or control, and had knowledge of or
9 knowingly participated in any conduct for which the licensee was disciplined, Stephanie Sophia
10 Averbukh shall be prohibited from serving as a manager, administrator, owner, member, officer,
11 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY
12 50301 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is
13 revoked.

14 75. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
15 PHY 50301 issued to Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, then Rx
16 Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, shall be prohibited from serving as a
17 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
18 five years if Pharmacy Permit Number PHY 50301 is placed on probation or until Pharmacy
19 Permit Number PHY 50301 is reinstated if it is revoked.

20 76. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
21 PHY 50301 issued to Rx Unlimited Pharmacy while Brian Paul Sohan Goldstein was serving as
22 a manager, administrator, owner, member, officer, director, associate, partner, or in any other
23 position with management or control, and had knowledge of or knowingly participated in any
24 conduct for which the licensee was disciplined, Brian Paul Sohan Goldstein shall be prohibited
25 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
26 of a licensee for five years if Pharmacy Permit Number PHY 50301 is placed on probation or
27 until Pharmacy Permit Number PHY 50301 is reinstated if it is revoked, or until surrendered.

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1 77. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
2 PHY 50301 issued to Rx Unlimited Pharmacy while Benjamin Friedman was serving as a
3 manager, administrator, owner, member, officer, director, associate, partner, or in any other
4 position with management or control, and had knowledge of or knowingly participated in any
5 conduct for which the licensee was disciplined, Benjamin Friedman shall be prohibited from
6 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
7 licensee for five years if Pharmacy Permit Number PHY 50301 is placed on probation or until
8 Pharmacy Permit Number PHY 50301 is reinstated if it is revoked, or until surrendered.

9 78. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
10 PHY 50301 issued to Rx Unlimited Pharmacy while Stephanie Sophia Averbukh was serving as
11 a manager, administrator, owner, member, officer, director, associate, partner, or in any other
12 position with management or control, and had knowledge of or knowingly participated in any
13 conduct for which the licensee was disciplined, Stephanie Sophia Averbukh shall be prohibited
14 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
15 of a licensee for five years if Pharmacy Permit Number PHY 50301 is placed on probation or
16 until Pharmacy Permit Number PHY 50301 is reinstated if it is revoked.

17 79. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
18 Number RPH No. 57164 issued to Andreas Gomarooni, Andreas Gomarooni shall be prohibited
19 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
20 of a licensee for five years if Pharmacist License Number RPH 57164 is placed on probation or
21 until Pharmacist License Number RPH 57164 is reinstated if it is revoked.

22 80. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Technician
23 License Number TCH 101671 issued to Brian Paul Sohan Goldstein, Brian Paul Sohan Goldstein
24 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,
25 associate, or partner of a licensee for five years if Pharmacy Technician License Number TCH
26 101671 is placed on probation or until Pharmacy Technician License Number TCH 101671 is
27 reinstated if it is revoked.

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81. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH 32590 issued to Benjamin Friedman, Benjamin Friedman shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if is placed on probation or until Pharmacist License Number RPH 32590 is reinstated if it is revoked.

82. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH 67571 issued to Stephanie Sophia Averbukh, Stephanie Sophia Averbukh shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 67571 is placed on probation or until Pharmacist License Number RPH 67571 is reinstated if it is revoked.

PRA YER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Permit No. PHY 50302, issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member;

2. Revoking or suspending Sterile Compounding Permit No. LSC 99642, issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member;

3. Revoking or suspending Registered Pharmacist License No. RPH 57164, issued to Andreas Gomarooni;

4. Revoking or suspending Advanced Practice Pharmacist License No. APH 10609,
issued to Andreas Gomarooni;

5. Revoking or suspending Pharmacy Technician Registration No. TCH 101671, issued to Brian Paul Sohan Goldstein;

6. Revoking or suspending Registered Pharmacist License No. RPH 32590, issued to Benjamin Friedman;

7. Revoking or suspending Pharmacy Permit No. PHY 50301, issued to Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member:

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1 8. Revoking or suspending Registered Pharmacist License No. RPH 67571, issued to
2 Stephanie Sophia Averbukh;

3 9. Prohibiting Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan
4 Goldstein, member, from serving as a manager, administrator, owner, member, officer, director,
5 associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50302 is placed
6 on probation or until Pharmacy Permit Number PHY 50302 is reinstated if Pharmacy Permit
7 Number PHY 50302 is revoked;

8 10. Prohibiting Andreas Gomarooni from serving as a manager, administrator, owner,
9 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
10 Number PHY 50302 is placed on probation, or until Pharmacy Permit Number PHY 50302 is
11 reinstated if Pharmacy Permit Number PHY 50302 is revoked;

12 11. Prohibiting Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, from
13 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
14 licensee for five years if Pharmacy Permit Number PHY 50301 is placed on probation or until
15 Pharmacy Permit Number PHY 50301 is reinstated if Pharmacy Permit Number PHY 50301 is
16 revoked;

17 12. Prohibiting Stephanie Sophia Averbukh from serving as a manager, administrator,
18 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
19 Permit Number PHY 50301 is placed on probation or until Pharmacy Permit Number
20 PHY 50301 is reinstated if Pharmacy Permit Number PHY 50301 is revoked;

21 13. Prohibiting Andreas Gomarooni from serving as a manager, administrator, owner,
22 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
23 Number RPH 57164 is placed on probation or until Pharmacist License Number RPH 57164 is
24 reinstated if Pharmacist License Number RPH 57164 is revoked;

25 14. Prohibiting Andreas Gomarooni from serving as a manager, administrator, owner,
26 member, officer, director, associate, or partner of a licensee for five years if Advanced Practice
27 Pharmacist License No. APH 10609 is placed on probation or until Advanced Practice
28

Pharmacist License Number APH 10609 is reinstated if Advanced Practice Pharmacist License Number APH 10609 is revoked;

15. Prohibiting Brian Paul Sohan Goldstein from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Technician Registration No. TCH 101671 is placed on probation, or until Pharmacy Technician Registration No. TCH 101671 is reinstated if Pharmacy Technician Registration No. TCH 101671 is revoked;

16. Prohibiting Benjamin Friedman from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 32590 is placed on probation, or until Pharmacist License Number RPH 32590 is reinstated if Pharmacist License Number RPH 32590 is revoked;

17. Prohibiting Stephanie Sophia Averbukh from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 67571 is placed on probation, or until Pharmacist License Number RPH 67571 is reinstated if Pharmacist License Number RPH 67571 is revoked;

18. Ordering Rx Unlimited, LLC dba Rx Unlimited Pharmacy 50302, Andreas Gomarooni, Brian Paul Sohan Goldstein, Benjamin Friedman, Rx Unlimited Pharmacy 50301, and Stephanie Sophia Averbukh to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

19. Taking such other and further action as deemed necessary and proper.

DATED: 10/17/2021

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

EXHIBIT “A”

Decision and Order in Third Amended Accusation/Petition to Revoke Case No. 6319

(Respondent Rx Unlimited Pharmacy, LLC – PHY 50302)

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED, LLC DBA RX UNLIMITED PHARMACY, BRIAN PAUL
SOHAN GOLDSTEIN, PAUL RAY GOLDSTEIN
Pharmacy Permit No. PHY 50302 and
Sterile Compounding Permit No. LSC 99642;**

CLIFTON EUGENE BRADDY, Pharmacist License No. RPH 45546;

**BRIAN PAUL SOHAN GOLDSTEIN, Pharmacy Technician Registration
No. TCH 101671;**

STEPHANIE SOPHIA AVERBUKH, Pharmacist License No. RPH 67571;

Respondents

Agency Case No. 6319

OAH No. 2019070633

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on July 29, 2020.

It is so ORDERED on June 29, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", written in a cursive style.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6301
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Third Amended Accusation
11 and Petition to Revoke Probation Against:

Case No. 6319

12 **RX UNLIMITED, LLC DBA RX**
UNLIMITED PHARMACY, BRIAN PAUL
13 **SOHAN GOLDSTEIN, PAUL RAY**
GOLDSTEIN

OAH No. 2019070633

14 16673 Roscoe Blvd.
North Hills, CA 91343

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT RX UNLIMITED, LLC
DBA RX UNLIMITED PHARMACY,
PHARMACY PERMIT NO. PHY 50302
AND STERILE COMPOUNDING
PERMIT NO. LSC 99642

15 Pharmacy Permit No. PHY 50302
16 Sterile Compounding Permit No. LSC 99642,

17 **CLIFTON EUGENE BRADDY**
18 18333 Hatteras St., #110
Tarzana, CA 91356

19 Pharmacist License No. RPH 45546,

20 **BRIAN PAUL SOHAN GOLDSTEIN**
8641 Wilshire Blvd, Suite 120
21 Beverly Hills, CA 90211

22 Pharmacy Technician Registration No. TCH
101671,

23 and

24 **STEPHANIE SOPHIA AVERBUKH**
13443 Debby Street
25 Valley Glen, CA 91401

26 Pharmacist License No. RPH 67571

27 Respondents.
28

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 **PARTIES**

4 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
5 (Board). She brought this action solely in her official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
7 General.

8 2. Respondent Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan
9 Goldstein, Paul Ray Goldstein (Respondent) is represented in this proceeding by attorney Tony J.
10 Park, whose address is: 49 Discovery, Suite 240, Irvine, CA 92618-6713.

11 **Original Pharmacy Permit**

12 3. On or about June 28, 2010, the Board issued Pharmacy Permit Number PHY 50302 to
13 Respondent. The Pharmacy Permit was in full force and effect at all times relevant to the charges
14 brought herein and will expire on June 1, 2020, unless renewed.

15 4. In a disciplinary action entitled "In the Matter of the Accusation Against Rx
16 Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy" (Respondent),
17 Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on March 13, 2017,
18 in which Respondent's Pharmacy Permit was revoked. However, the revocation was stayed, and
19 Respondent's Pharmacy Permit was placed on probation for five (5) years, with certain terms and
20 conditions. A copy of that Decision and Order is attached as Exhibit A and is incorporated herein
21 by reference.

22 **Sterile Compounding Permit**

23 5. On or about September 28, 2010, the Board issued Sterile Compounding Permit
24 Number LSC 99642 to Respondent. The Sterile Compounding Permit was in full force and effect
25 at all times relevant to the charges brought herein and will expire on June 1, 2020, unless
26 renewed.

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1 **JURISDICTION**

2 6. Third Amended Accusation and Petition to Revoke Probation No. 6319 was filed
3 before the Board, and is currently pending against Respondent. The Third Amended Accusation
4 and Petition to Revoke Probation and all other statutorily required documents were properly
5 served on Respondent on February 11, 2020. Respondent timely filed its Notice of Defense
6 contesting the Accusation.

7 7. A copy of Third Amended Accusation and Petition to Revoke Probation No. 6319 is
8 attached as exhibit A and incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

10 8. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Third Amended Accusation and Petition to Revoke Probation No.
12 6319. Respondent has also carefully read, fully discussed with counsel, and understands the
13 effects of this Stipulated Settlement and Disciplinary Order.

14 9. Respondent is fully aware of its legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Third Amended Accusation and Petition to Revoke
16 Probation; the right to confront and cross-examine the witnesses against it; the right to present
17 evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the
18 attendance of witnesses and the production of documents; the right to reconsideration and court
19 review of an adverse decision; and all other rights accorded by the California Administrative
20 Procedure Act and other applicable laws.

21 10. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 **CULPABILITY**

24 11. Respondent admits the truth of each and every charge and allegation in Third
25 Amended Accusation and Petition to Revoke Probation No. 6319.

26 12. Respondent agrees that its Pharmacy Permit is subject to discipline and it agrees to be
27 bound by the Board's probationary terms as set forth in the Disciplinary Order below.

28 ///

CONTINGENCY

13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 50302 and Sterile Compounding Permit No. LSC 99642 issued to Respondent Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, Paul Ray Goldstein (Respondent) are revoked. However, the revocations are stayed and Respondent's current

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1 probation is extended for four (4) additional years beyond the original expiration date of March
2 13, 2022 - until March 13, 2026 - on the following terms and conditions.

3 **1. Definition: Respondent**

4 For the purposes of these terms and conditions, "Respondent" shall refer to Rx Unlimited,
5 LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, Paul Ray Goldstein. All terms
6 and conditions stated herein shall bind and be applicable to the licensed premises and to all
7 owners, managers, officers, administrators, members, directors, trustees, associates, or partners
8 thereof. For purposes of compliance with any term or condition, any report, submission, filing,
9 payment, or appearance required to be made by Respondent to or before the Board or its designee
10 shall be made by an owner or executive officer with authority to act on behalf of and legally bind
11 the licensed entity.

12 **2. Obey All Laws**

13 Respondent shall obey all state and federal laws and regulations.

14 Respondent shall report any of the following occurrences to the Board, in writing, within
15 seventy-two (72) hours of such occurrence:

- 16 • an arrest or issuance of a criminal complaint for violation of any provision of the
17 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
18 substances laws
- 19 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
20 criminal complaint, information or indictment
- 21 • a conviction of any crime
- 22 • discipline, citation, or other administrative action filed by any state or federal agency
23 which involves respondent's original pharmacy permit and sterile compounding
24 license or which is related to the practice of pharmacy or the manufacturing,
25 obtaining, handling or distributing, billing, or charging for any drug, device or
26 controlled substance.

27 Failure to timely report any such occurrence shall be considered a violation of probation.

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1 **3. Report to the Board**

2 Respondent shall report to the Board quarterly, on a schedule as directed by the board or its
3 designee. The report shall be made either in person or in writing, as directed. Among other
4 requirements, Respondent shall state in each report under penalty of perjury whether there has
5 been compliance with all the terms and conditions of probation. Failure to submit timely reports
6 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
7 in submission of reports as directed may be added to the total period of probation. Moreover, if
8 the final probation report is not made as directed, probation shall be automatically extended until
9 such time as the final report is made and accepted by the Board.

10 **4. Interview with the Board**

11 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
12 with the Board or its designee, at such intervals and locations as are determined by the board or
13 its designee. Failure to appear for any scheduled interview without prior notification to board
14 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
15 during the period of probation, shall be considered a violation of probation.

16 **5. Cooperate with Board Staff**

17 Respondent shall cooperate with the Board's inspection program and with the Board's
18 monitoring and investigation of Respondent's compliance with the terms and conditions of its
19 probation. Failure to cooperate shall be considered a violation of probation.

20 **6. Reimbursement of Board Costs**

21 As a condition precedent to successful completion of probation, Respondent shall pay to the
22 Board its costs of investigation and prosecution in the amount of \$20,000.00. Respondent shall
23 make said payments on a payment plan approved by the Board. There shall be no deviation from
24 this schedule absent prior written approval by the Board or its designee. Failure to pay costs by
25 the deadline(s) as directed shall be considered a violation of probation.

26 The filing of bankruptcy by Respondent shall not relieve Respondent of its responsibility to
27 reimburse the Board its costs of investigation and prosecution.

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1 **7. Probation Monitoring Costs**

2 Respondent shall pay any costs associated with probation monitoring as determined by the
3 Board each and every year of probation. Such costs shall be payable to the board on a schedule
4 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
5 shall be considered a violation of probation.

6 **8. Status of License**

7 Respondent shall, at all times while on probation, maintain current licensure with the
8 Board. If Respondent submits an application to the Board, and the application is approved, for a
9 change of location, change of permit or change of ownership, the Board shall retain continuing
10 jurisdiction over the license, and the Respondent shall remain on probation as determined by the
11 Board. Failure to maintain current licensure shall be considered a violation of probation.

12 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
13 during the period of probation, including any extensions thereof or otherwise, upon renewal or
14 reapplication Respondent's license shall be subject to all terms and conditions of this probation
15 not previously satisfied.

16 **9. License Surrender While on Probation/Suspension**

17 Following the effective date of this decision, should Respondent discontinue business,
18 Respondent may tender the premises license to the Board for surrender. The Board or its
19 designee shall have the discretion whether to grant the request for surrender or take any other
20 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
21 license, Respondent will no longer be subject to the terms and conditions of probation.

22 Upon acceptance of the surrender, Respondent shall relinquish the premises wall and
23 renewal license to the Board within ten (10) days of notification by the Board that the surrender is
24 accepted. Respondent shall further submit a completed Discontinuance of Business form
25 according to Board guidelines and shall notify the Board of the records inventory transfer.

26 Respondent shall also, by the effective date of this decision, arrange for the continuation of
27 care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing
28 patients that specifies the anticipated closing date of the pharmacy and that identifies one or more

1 area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary
2 in the transfer of records or prescriptions for ongoing patients. Within five days of its provision
3 to the pharmacy's ongoing patients, Respondent shall provide a copy of the written notice to the
4 board. For the purposes of this provision, "ongoing patients" means those patients for whom the
5 pharmacy has on file a prescription with one or more refills outstanding, or for whom the
6 pharmacy has filled a prescription within the preceding sixty (60) days.

7 Respondent may not apply for any new licensure from the Board for three (3) years from
8 the effective date of the surrender. Respondent shall meet all requirements applicable to the
9 license sought as of the date the application for that license is submitted to the Board.

10 Respondent further stipulates that it shall reimburse the Board for its costs of investigation
11 and prosecution prior to the acceptance of the surrender.

12 **10. Sale or Discontinuance of Business**

13 During the period of probation, should respondent sell, trade or transfer all or part of the
14 ownership of the licensed entity, discontinue doing business under the license issued to
15 respondent, or should practice at that location be assumed by another full or partial owner,
16 person, firm, business, or entity, under the same or a different premises license number, the board
17 or its designee shall have the sole discretion to determine whether to exercise continuing
18 jurisdiction over the licensed location, under the current or new premises license number, and/or
19 carry the remaining period of probation forward to be applicable to the current or new premises
20 license number of the new owner.

21 **11. Notice to Employees**

22 Respondent shall, upon or before the effective date of this decision, ensure that all
23 employees involved in permit operations are made aware of all the terms and conditions of
24 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
25 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
26 remain posted throughout the probation period. Respondent shall ensure that any employees
27 hired or used after the effective date of this decision are made aware of the terms and conditions
28 of probation by posting a notice, circulating a notice, or both. Additionally, Respondent shall

1 submit written notification to the Board, within fifteen (15) days of the effective date of this
2 decision, that this term has been satisfied. Failure to submit such notification to the Board shall
3 be considered a violation of probation.

4 "Employees" as used in this provision includes all full-time, part-time, volunteer,
5 temporary and relief employees and independent contractors employed or hired at any
6 time during probation.

7 **12. Owners and Officers: Knowledge of the Law**

8 Respondent shall provide, within thirty (30) days after the effective date of this decision,
9 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
10 or more of the interest in Respondent or Respondent's stock, and any officer, stating under
11 penalty of perjury that said individuals have read and are familiar with state and federal laws and
12 regulations governing the practice of pharmacy. The failure to timely provide said statements
13 under penalty of perjury shall be considered a violation of probation.

14 **13. Premises Open for Business**

15 Respondent shall remain open and engaged in its ordinary business as a pharmacy in
16 California for a minimum of 120 hours per calendar month. Any month during which this
17 minimum is not met shall toll the period of probation, i.e., the period of probation shall be
18 extended by one month for each month during with this minimum is not met. During any such
19 period of tolling of probation, respondent must nonetheless comply with all terms and conditions
20 of probation, unless respondent is informed otherwise in writing by the Board or its designee. If
21 Respondent is not open and engaged in its ordinary business as a pharmacy for a minimum of 120
22 hours in any calendar month, for any reason (including vacation), Respondent shall notify the
23 Board in writing within ten (10) days of the conclusion of that calendar month. This notification
24 shall include at minimum all of the following: the date(s) and hours respondent was open; the
25 reason(s) for the interruption or why business was not conducted; and the anticipated date(s) on
26 which Respondent will resume business as required. Respondent shall further notify the board in
27 writing with ten (10) days following the next calendar month during which respondent is open

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1 and engaged in its ordinary business as a pharmacy in California for a minimum of 120 hours.
2 Any failure to timely provide such notification(s) shall be considered a violation of probation.

3 **14. Posted Notice of Probation**

4 Respondent shall prominently post a probation notice provided by the Board in a place
5 conspicuous and readable to the public. The probation notice shall remain posted during the
6 entire period of probation.

7 Respondent shall not, directly or indirectly, engage in any conduct or make any statement
8 which is intended to mislead or is likely to have the effect of misleading any patient, customer,
9 member of the public, or other person(s) as to the nature of and reason for the probation of the
10 licensed entity.

11 Failure to post such notice shall be considered a violation of probation.

12 **15. Violation of Probation**

13 If a Respondent has not complied with any term or condition of probation, the Board shall
14 have continuing jurisdiction over Respondent's licenses, and probation shall be automatically
15 extended until all terms and conditions have been satisfied or the Board has taken other action as
16 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
17 probation, and to impose the penalty that was stayed.

18 If Respondent violates probation in any respect, the Board, after giving Respondent notice
19 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
20 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
21 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
22 a petition to revoke probation or an accusation is filed against Respondent during probation, the
23 Board shall have continuing jurisdiction and the period of probation shall be automatically
24 extended until the petition to revoke probation or accusation is heard and decided, and all charges
25 and allegations in Third Amended Accusation and Petition to Revoke Probation No. 4567 shall be
26 deemed true and correct.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Tony J. Park. I understand the stipulation and the effect it will have on my Pharmacy Permit, and Sterile Compounding Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 4-24-20 [Signature]
RX UNLIMITED, LLC DBA RX UNLIMITED
PHARMACY
Respondent

DATED: 04/24/2020


TONY J. PARK
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: 4/27/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

LA2017507520
63238480.docx

Exhibit A

Third Amended Accusation and Petition to Revoke Probation No. 6319

1 XAVIER BECERRA
Attorney General of California
2 LINDA SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6301
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Third Amended
12 Accusation and Petition to Revoke Probation
Against:

Case No. 6319

13 **RX UNLIMITED, LLC DBA RX**
14 **UNLIMITED PHARMACY,**
15 **BRIAN PAUL SOHAN GOLDSTEIN –**
16 **MEMBER**

**THIRD AMENDED ACCUSATION AND
PETITION TO REVOKE PROBATION**

16 16673 Roscoe Blvd.
North Hills, CA 91343

17 Pharmacy Permit No. PHY 50302
18 Sterile Compounding Permit No. LSC 99642,

19 **and**

20 **CLIFTON EUGENE BRADDY**

21 18333 Hatteras St. # 110
Tarzana, CA 91356

22 Registered Pharmacist License No. RPH 45546

23 **and**

24 **BRIAN PAUL SOHAN GOLDSTEIN**

25 8641 Wilshire Blvd, Suite 120
Beverly Hills, CA 90211

26 Pharmacy Technician Registration No. TCH
101671

27 *(Continued on next page)*
28

1 **Rx Unlimited Pharmacy**

2 **Sterile Compounding Permit**

3 4. On or about September 28, 2010, the Board issued Sterile Compounding Permit
4 Number LSC 99642 to Respondent Rx Unlimited Pharmacy. The Sterile Compounding Permit
5 was in full force and effect at all times relevant to the charges brought herein and will expire on
6 June 1, 2020, unless renewed.

7 **Clifton Eugene Braddy**

8 **Pharmacist-in-Charge (June 28, 2010 – November 9, 2015)**

9 5. On or about August 14, 1992, the Board of Pharmacy issued Registered Pharmacist
10 License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Registered
11 Pharmacist License, which was in full force and effect at all times relevant to the charges brought
12 herein, expired on April 30, 2018, and was subsequently cancelled on May 31, 2018 after
13 Respondent Braddy voluntarily surrendered his license pursuant to the terms and conditions of his
14 probation.

15 6. In a disciplinary action entitled "In the Matter of the Accusation Against Rx
16 Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567,
17 the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which
18 Respondent Braddy's Pharmacist License was revoked. However, the revocation was stayed, and
19 Respondent Braddy's Pharmacist License was placed on probation for five (5) years, with certain
20 terms and conditions. A copy of that Decision and Order is attached as Exhibit B and is
21 incorporated herein by reference.

22 **Brian Paul Sohan Goldstein**

23 **Original Pharmacy Technician**

24 7. On or about May 4, 2010, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 101671 to Brian Paul Sohan Goldstein (Respondent Goldstein). The
26 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
27 brought herein and will expire on September 30, 2021, unless renewed.

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1 **Stephanie Sophia Averbukh**

2 **Pharmacist-in-Charge (November 9, 2015 - January 19, 2018)**

3 8. On or about August 16, 2012, the Board of Pharmacy issued Registered Pharmacist
4 License Number RPH 67571 to Stephanie Sophia Averbukh (Respondent Averbukh). The
5 Registered Pharmacist License was in full force and effect at all times relevant to the charges
6 brought herein and will expire on January 31, 2022, unless renewed.

7 **JURISDICTION AND STATUTORY PROVISIONS**

8 9. This Third Amended Accusation and Petition to Revoke Probation is brought before
9 the Board under the authority of the following laws. All section references are to the Business
10 and Professions Code (Code) unless otherwise indicated.

11 10. Section 4300.1 of the Code states:

12 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
13 operation of law or by order or decision of the board or a court of law, the placement of a license
14 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
15 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
16 proceeding against, the licensee or to render a decision suspending or revoking the license."

17 11. Section 4300 of the Code states, in pertinent part:

18 "(a) Every license issued may be suspended or revoked.

19 "(b) The board shall discipline the holder of any license issued by the board, whose default
20 has been entered or whose case has been heard by the board and found guilty, by any of the
21 following methods:

22 "(1) Suspending judgment.

23 "(2) Placing him or her upon probation.

24 "(3) Suspending his or her right to practice for a period not exceeding one year.

25 "(4) Revoking his or her license.

26 "(5) Taking any other action in relation to disciplining him or her as the board in its
27 discretion may deem proper."

28

1 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
2 certificate of licensure for any violation of the terms and conditions of probation. Upon
3 satisfactory completion of probation, the board shall convert the probationary certificate to a
4 regular certificate, free of conditions."

5 12. Section 4022 of the Code states:

6 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
7 humans or animals, and includes the following:

8 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
9 prescription," "Rx only," or words of similar import.

10 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
11 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with
12 the designation of the practitioner licensed to use or order use of the device.

13 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
14 prescription or furnished pursuant to Section 4006."

15 13. Section 4059.5 states, in pertinent part:

16

17 "(e) A dangerous drug or dangerous device shall not be transferred, sold, or delivered to a
18 person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer
19 does so in compliance with the laws of this state and of the United States and of the state or
20 country to which the dangerous drugs or dangerous devices are to be transferred, sold, or
21 delivered. Compliance with the laws of this state and the United States and of the state or country
22 to which the dangerous drugs or dangerous devices are to be delivered shall include, but not
23 limited to, determining that the recipient of the dangerous drugs or dangerous devices is
24 authorized by law to receive the dangerous drugs or dangerous devices."

25 14. Section 4301 states, in pertinent part:

26 "The board shall take action against any holder of a license who is guilty of unprofessional
27 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
28 not limited to, any of the following:

1

2 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
3 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
4 whether the act is a felony or misdemeanor or not.”

5 “(g) Knowingly making or signing any certificate or other document that falsely represents
6 the existence or nonexistence of a state of facts.”

7

8 “(j) The violation of any of the statutes of this state, of any other state, or of the United
9 States regulating controlled substances and dangerous drugs.”

10

11 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
12 violation of or conspiring to violate any provision or term of this chapter or of the applicable
13 federal and state laws and regulations governing pharmacy, including regulations established by
14 the board or by any other state or federal regulatory agency.

15 15. Health and Safety Code section 11162.1 states, in pertinent part:

16 “(a) The prescription forms for controlled substances shall be printed with the following
17 features:

18 “(1) A latent, repetitive “void” pattern shall be printed across the entire front of the
19 prescription blank; if a prescription is scanned or photocopied, the word “void” shall appear in a
20 pattern across the entire front of the prescription.

21 “(2) A watermark shall be printed on the backside of the prescription blank; the watermark
22 shall consist of the words “California Security Prescription.”

23 “(3) A chemical void protection that prevents alteration by chemical washing.

24 “(4) A feature printed in thermochromic ink.

25 “(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

26 “(6) A description of the security features included on each prescription form.

27 “(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may
28 indicate the quantity by checking the applicable box where the following quantities shall appear:

1 “1–24

2 “25–49

3 “50–74

4 “75–100

5 “101–150

6 “151 and over.

7 “(B) In conjunction with the quantity boxes, a space shall be provided to designate the units
8 referenced in the quantity boxes when the drug is not in tablet or capsule form.

9 “(8) Prescription blanks shall contain a statement printed on the bottom of the prescription
10 blank that the “Prescription is void if the number of drugs prescribed is not noted.”

11 “(9) The preprinted name, category of licensure, license number, federal controlled
12 substance registration number, and address of the prescribing practitioner.

13 “(10) Check boxes shall be printed on the form so that the prescriber may indicate the
14 number of refills ordered.

15 “(11) The date of origin of the prescription.

16 “(12) A check box indicating the prescriber’s order not to substitute.

17 “(13) An identifying number assigned to the approved security printer by the Department of
18 Justice.”

19 16. Section 4307 of the Code states, in pertinent part:

20 “(a) Any person who has been denied a license or whose license has been revoked or is
21 under suspension, or who has failed to renew his or her license while it was under suspension, or
22 who has been a manager, administrator, owner member, officer, director, associate, partner, or
23 any other person with management or control of any partnership, corporation, firm, or association
24 whose application for a license has been denied or revoked, is under suspension or has been
25 placed on probation, and while acting as the manger, administrator, owner, member, officer,
26 director, associate, partner, or any other person with management or control had knowledge or
27 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
28 placed on probation, shall be prohibited from serving as a manger, administrator, owner, member,

officer, director, associate, partner, or any other person with management or control of a licensee as follows:

“(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

“(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.”

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1717.3 states, in pertinent part:

“(a) No person shall dispense a controlled substance pursuant to a preprinted multiple check-off prescription blank.”

18. California Code of Regulations, title 16, section 1761 states, in pertinent part:

“(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.”

19. California Code of Regulations, title 16, section 1773, states, in part:

"(a) Unless otherwise directed by the Board in its sole discretion, any pharmacist who is serving a period of probation shall comply with the following conditions:

"(1) Obey all laws and regulations substantially related to the practice of Pharmacy;

"(2) Report to the Board or its designee quarterly either in person or in writing as directed; the report shall include the name and address of the probationer's employer. If the final probation report is not made as directed, the period of probation shall be extended until such time as the final report is made;"

. . . .

20. California Code of Regulations, title 16, section 1774, subdivision (a)(2) states, in pertinent part:

“(a) (2) Unless otherwise directed by the Board, any pharmacy permit which is on probation to the Board shall be subject to the following conditions: The permit, through its

1 officer, partners or owners, shall report to the Board or its designees quarterly, either in person or
2 in writing as directed; if the final probation report is not made as directed, the period of probation
3 shall be extended until such time as the final report is made.”

4 **COST RECOVERY**

5 21. Section 125.3 provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
9 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
10 included in a stipulated settlement.

11 **THIRD AMENDED ACCUSATION**

12 **BOARD INVESTIGATION REPORT DATED AUGUST 9, 2017**

13
14
15 22. A Board investigation conducted in regard to Respondent Rx Unlimited Pharmacy
16 revealed that between December 26, 2013 and July 29, 2016, Rx Unlimited Pharmacy located at
17 16673 Roscoe Boulevard, North Hills, CA 91343, unlawfully shipped/mailed approximately 453
18 prescriptions involving dangerous drugs and/or dangerous devices into 27 states other than
19 California where they were not licensed to do so. Further, many of these dangerous drugs were
20 sterile compounds, which carry a higher risk of infectious contamination. These violations of law
21 were documented in a Board Investigation Report dated August 9, 2017.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct)**

24 23. Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein are subject to
25 disciplinary action under section 4301, subdivision (f) in that Rx Unlimited, Braddy and
26 Goldstein committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. The
27 circumstances are as follows:

28 ///

24. Between December 26, 2013 and July 29, 2016, Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein unlawfully shipped/mailed approximately 453 prescriptions involving dangerous drugs and/or dangerous devices into 27 states other than California where they were not licensed to do so. Further, many of these dangerous drugs were sterile compounds, which carry a higher risk of infectious contamination.

SECOND CAUSE FOR DISCIPLINE

(Compliance with Laws of All Involved Jurisdictions)

25. Respondents Rx Unlimited, Braddy, and Goldstein are subject to disciplinary action under section 4059.5, subdivision (e) in conjunction with section 4301, subdivision (j), in that Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein failed to comply with the laws of this state and federal laws by unlawfully shipping/mailing prescriptions involving dangerous drugs or dangerous devices into 27 states other than California where they were not licensed to do so, as set forth in paragraphs 22-24 above.

BOARD INVESTIGATION REPORT OF MARCH 6, 2019

26. A follow up inspection conducted in regard to Respondent Rx Unlimited Pharmacy by Board Inspectors was initiated on or about October 16, 2018, wherein additional violations of law were uncovered. The underlying facts and related violations documented by a Board Inspector in a Board Inspection Report dated March 6, 2019 is summarized as follows.

27. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were not issued on a prescription form for controlled substances as required in the State of California.

28. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were written on prescription paper with preprinted multiple check-off boxes for controlled substances.

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1 29. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while
2 employed at Rx Unlimited Pharmacy, unlawfully processed and dispensed 41 prescriptions, 18 of
3 which were controlled substances, which were erroneous for the following reasons:

- 4 • Controlled substances were not written on required California Prescription Pads.
- 5 • Controlled substances were written on preprinted scripts with check-off boxes.
- 6 • Rx 125537, 125535 & 125534 were dated by the prescriber as being written on
7 10/5/2015, then 10/28/2015, then 11/10/2015; Rx# 125731 was dated by the
8 prescriber as being written on 10/5/2015, then 10/28/2015, then 11/10/2015. Rx
9 125546, 125547 and 12551 were dated by the prescriber as being written on
10 10/28/2015, then 11/10/2015. Rx 125514, 125555 and 125556 were dated by the
11 prescriber as being written on 10/28/2015, then 11/10/2015. Rx 125811, 125812
12 and 125813 were dated by the prescriber as being written on 10/28/2015, then
13 11/10/2015. Rx 125762 and 125763 were dated by the prescriber as being written
14 on 10/28/2015, then 11/10/2015. Rx 125743, 125744 and 125745 were dated by
15 the prescriber as being written on 10/28/2015, then 11/10/2015.
- 16 • There is no evidence (fax header or telephone notations) as to how these
17 prescriptions above were received at Respondent Rx Unlimited, as they were
18 written on a "Boulevard Pharmacy" Form.

19 30. Respondent Averbukh, while employed as pharmacist in charge at Respondent Rx
20 Unlimited Pharmacy, signed under penalty of perjury, a Community Pharmacy and Hospital
21 Outpatient Pharmacy Compounding Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In
22 each self-assessment, Respondent Averbukh failed to list pharmacist B.F. as required, despite the
23 fact that pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited
24 Pharmacy from December 2015 through April 2018, as confirmed by statements obtained by
25 Board Inspectors from current and previous employees of Respondent Rx Unlimited Pharmacy.

26 31. Respondent Goldstein, as owner of Respondent Rx Unlimited Pharmacy, also signed
27 under penalty of perjury, a Community Pharmacy and Hospital Outpatient Pharmacy
28 Compounding Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In each self-assessment,

Respondent Goldstein failed to list pharmacist B.F. as required, despite the fact that pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited Pharmacy from December 2015 through April 2018, as confirmed by statements obtained by Board Inspectors from current and previous employees of Respondent Rx Unlimited Pharmacy.

THIRD CAUSE FOR DISCIPLINE

(Prescription Forms for Controlled Substances Requirements)

32. Respondents Rx Unlimited Pharmacy and Averbukh are subject to disciplinary action under Health and Safety Code section 11162.1, subdivision (a) (1-13), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were not issued on a prescription form for controlled substances as required in the State of California, as set forth in paragraphs 26-31 above.

FOURTH CAUSE FOR DISCIPLINE

(Preprinted Multiple Checkoff Prescription Blanks)

33. Respondents Rx Unlimited Pharmacy and Averbukh are subject to disciplinary action under California Code of Regulations, title 16, section 1717.3, subdivision (a), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were written on prescription paper with preprinted multiple check-off boxes for controlled substances, as set forth in paragraphs 26-31 above.

FIFTH CAUSE FOR DISCIPLINE

(Erroneous or Uncertain Prescriptions)

34. Respondent Averbukh is subject to disciplinary action under Code section 4301, subdivision (a), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Rx Unlimited Pharmacy, unlawfully processed and dispensed 41 erroneous prescriptions, 18 of which were controlled substances, as set forth in paragraphs 26-31 above.

///

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Knowingly Signing Document That Falsely Represents Facts)**

3 35. Respondents Averbukh and Goldstein are subject to disciplinary action under Code
4 section 4301, subdivision (g), in that Respondents Averbukh and Goldstein each signed under
5 penalty of perjury, a Community Pharmacy and Hospital Outpatient Pharmacy Compounding
6 Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In each self-assessment, Respondents
7 Averbukh and Goldstein both failed to list pharmacist B.F. as required, despite the fact that
8 pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited Pharmacy from
9 December 2015 through April 2018, as confirmed by statements obtained by Board Inspectors
10 from current and previous employees of Respondent Rx Unlimited Pharmacy, as set forth in
11 paragraphs 26-31 above.

12
13 **PETITION TO REVOKE PROBATION**

14
15 **FIRST CAUSE TO REVOKE PROBATION**

16 **(Failure to Obey All Laws)**

17 36. At all times after the effective date of the Order and Decision in Case No. 4567, In
18 the Matter of the Accusation Against Rx Unlimited, LLC; Rx Unlimited Pharmacy, Probation
19 Term and Condition Number 1 of Case No. 4567 stated in pertinent part:

20 **“1. Obey All Laws**

21 **“Respondent’s owner shall obey all state and federal laws and regulations. . . “**

22 37. Respondent Rx Unlimited Pharmacy’s probation is subject to revocation pursuant to
23 California Code of Regulations, title 16, sections 1773 and 1774, subdivision (a)(1), because it
24 failed to comply with Probation Condition 1, referenced above, in that it violated California
25 pharmacy laws, statutes and regulations, as set forth above in paragraphs 22-35 above, which are
26 incorporated by this reference as though set forth fully herein.

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41. Respondent Braddy's probation is subject to revocation pursuant to California Code of Regulations, title 16, sections 1773 and 1774, subdivision (a)(1), because he failed to comply with Probation Condition 1, referenced above, in that he violated California pharmacy laws, statutes and regulations, as set forth above in paragraphs 22-35 above, which are incorporated by this reference as though set forth fully herein.

DISCIPLINE CONSIDERATIONS

42. To determine the degree of discipline, if any, to be imposed on Respondent Rx Unlimited Pharmacy, in a disciplinary action entitled "In the Matter of the Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which Respondent Rx Unlimited Pharmacy's Pharmacy Permit was revoked. However, the revocation was stayed, and Respondent Rx Unlimited Pharmacy's Pharmacy Permit was placed on probation for five (5) years, with certain terms and conditions.

43. To determine the degree of discipline, if any, to be imposed on Respondent Braddy, Complainant alleges that in a disciplinary action entitled "In the Matter of the Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which Respondent Braddy's Pharmacist License was revoked. However, the revocation was stayed, and Respondent Braddy's Pharmacist License was placed on probation for five (5) years, with certain terms and conditions.

OTHER MATTERS

44. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member, Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, and Paul Ray Goldstein, member, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is revoked.

1 45. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
2 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Clifton Eugene
3 Braddy was serving as a manager, administrator, owner, member, officer, director, associate,
4 partner, or in any other position with management or control, and had knowledge of or
5 knowingly participated in any conduct for which the licensee was disciplined, Clifton Eugene
6 Braddy shall be prohibited from serving as a manager, administrator, owner, member, officer,
7 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY
8 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is
9 revoked, or until surrendered Pharmacist License Number RPH 45546 is reinstated if it is
10 revoked.

11 46. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
12 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Stephanie Sophia
13 Averbukh was serving as a manager, administrator, owner, member, officer, director, associate,
14 partner, or in any other position with management or control, and had knowledge of or
15 knowingly participated in any conduct for which the licensee was disciplined, Stephanie Sophia
16 Averbukh shall be prohibited from serving as a manager, administrator, owner, member, officer,
17 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY
18 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is
19 revoked.

20 47. Pursuant to Code section 4307, if discipline is imposed on surrendered Pharmacist
21 License Number RPH 45546 issued to Clifton Eugene Braddy, Clifton Eugene Braddy shall be
22 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
23 or partner of a licensee until surrendered Pharmacist License Number RPH 45546 is ever
24 reinstated if it is revoked.

25 48. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
26 Number RPH 67571 issued to Stephanie Sophia Averbukh, Stephanie Sophia Averbukh shall be
27 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
28

1 or partner of a licensee for five years if Pharmacist License Number RPH 67571 is placed on
2 probation or until Pharmacist License Number RPH 67571 is reinstated if it is revoked.

3 **PRAYER**

4 *WHEREFORE*, Complainant requests that a hearing be held on the matters alleged in this
5 Third Amended Accusation and Petition to Revoke Probation, and that following the hearing, the
6 Board of Pharmacy issue a decision:

7 1. Revoking or suspending Pharmacy Permit No. PHY 50302, issued to Rx Unlimited,
8 LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein,
9 member;

10 2. Revoking or suspending Sterile Compounding Permit No. LSC 99642, issued to Rx
11 Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray
12 Goldstein, member

13 3. Revoking surrendered Registered Pharmacist License No. RPH 45546, issued to
14 Clifton Eugene Braddy;

15 4. Revoking or suspending Pharmacy Technician Registration No. TCH 101671, issued
16 to Brian Paul Sohan Goldstein;

17 5. Revoking or suspending Registered Pharmacist License No. RPH 67571, issued to
18 Stephanie Sophia Averbukh;

19 6. Prohibiting Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan
20 Goldstein, member, Paul Ray Goldstein, member, from serving as a manager, administrator,
21 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
22 Permit Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302
23 is reinstated if Pharmacy Permit Number PHY 50302 issued to Rx Unlimited, LLC dba Rx
24 Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member;

25 7. Prohibiting Clifton Eugene Braddy from serving as a manager, administrator, owner,
26 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
27 Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is
28 reinstated if Pharmacy Permit Number PHY 50302 issued Rx Unlimited, LLC dba Rx Unlimited

Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member is revoked, or until surrendered Pharmacist License Number RPH 45546 is ever reinstated if it is revoked.

8. Prohibiting Stephanie Sophia Averbukh from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if Pharmacy Permit Number PHY 50302 issued Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member is revoked;

9. Prohibiting Clifton Eugene Braddy from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee until surrendered Pharmacist License Number RPH 45546 is reinstated if surrendered Pharmacist License Number RPH 45546 issued to Clifton Eugene Braddy is revoked;

10. Prohibiting Stephanie Sophia Averbukh from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 67571 is placed on probation or until Pharmacist License Number RPH 45546 is reinstated if Pharmacist License Number RPH 67571 issued to Stephanie Sophia Averbukh is revoked;

11. Ordering Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Clifton Eugene Braddy, Brian Paul Sohan Goldstein, and Stephanie Sophia Averbukh to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

12. Taking such other and further action as deemed necessary and proper.

DATED: February 4, 2020



ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

EXHIBIT "A"

Decision and Order in Accusation Case No. 4567 (Respondent Rx Unlimited)

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED LLC
RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.
North Hills, CA 91343

Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642

and

CLIFTON EUGENE BRADY
18333 Hatteras St. #110
Tarzana, CA 91356

Pharmacist License No. RPH 45546

Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO RX
UNLIMITED, LLC DBA RX
UNLIMITED PHARMACY ONLY**

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 13, 2017.

It is so ORDERED on February 10, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
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300 So. Spring Street, Suite 1702
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Telephone: (213) 620-2558
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 **RX UNLIMITED LLC**
RX UNLIMITED PHARMACY
12 16673 Roscoe Blvd.,
North Hills, CA 91343
13
14 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642
15 and
16 **CLIFTON EUGENE BRADY**
18333 Hatteras St. #110
17 Tarzana, CA 91356
18 Pharmacist License No. RPH 45546
19
20 Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO RX
UNLIMITED, LLC DBA RX
UNLIMITED PHARMACY ONLY**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
28 General.

1 represented by counsel at its own expense; the right to confront and cross-examine the witnesses
2 against them; the right to present evidence and to testify on its own behalf; the right to the
3 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
4 the right to reconsideration and court review of an adverse decision; and all other rights accorded
5 by the California Administrative Procedure Act and other applicable laws.

6 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
7 every right set forth above.

8 CULPABILITY

9 10. Respondents understand and agree that the charges and allegations in Accusation No.
10 4567, if proven at a hearing, constitute cause for imposing discipline upon Respondents'
11 pharmacy and sterile compounding licenses.

12 11. For the purpose of resolving the Accusation without the expense and uncertainty of
13 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
14 basis for the charges in the Accusation, and that Respondents hereby give up their right to contest
15 those charges.

16 12. Respondents agree that their pharmacy and sterile compounding licenses are subject
17 to discipline and agree to be bound by the Board's probationary terms as set forth in the
18 Disciplinary Order below.

19 CONTINGENCY

20 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
21 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
22 communicate directly with the Board regarding this stipulation and settlement, without notice to
23 or participation by Respondents or its counsel. By signing the stipulation, Respondents
24 understand and agree that they may not withdraw its agreement or seek to rescind the stipulation
25 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
26 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
27 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
28 and the Board shall not be disqualified from further action by having considered this matter.

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
3 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

4 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
9 writing executed by an authorized representative of each of the parties.

10 16. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Board may, without further notice or formal proceeding, issue and enter the following
12 Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Original Pharmacy Permit Number PHY 50302 and Sterile
15 Compounding Permit No. LSC 99642 issued to Respondent RX Unlimited, LLC dba RX
16 Unlimited Pharmacy ("Respondents") are revoked. However, the revocation is stayed and
17 Respondents are placed on probation for five (5) years on the following terms and conditions.

18 **1. Obey All Laws**

19 Respondents' owner shall obey all state and federal laws and regulations.

20 Respondents' owner shall report any of the following occurrences to the board, in writing,
21 within seventy-two (72) hours of such occurrence:

- 22 • an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
- 25 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
- 27 • a conviction of any crime
- 28 • discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's original pharmacy permit and sterile compounding
2 license or which is related to the practice of pharmacy or the manufacturing,
3 obtaining, handling or distributing, billing, or charging for any drug, device or
4 controlled substance.

5 Failure to timely report any such occurrence shall be considered a violation of probation.

6 **2. Report to the Board**

7 Respondents' owner shall report to the board quarterly, on a schedule as directed by the
8 board or its designee. The report shall be made either in person or in writing, as directed. Among
9 other requirements, respondents' owner shall state in each report under penalty of perjury whether
10 there has been compliance with all the terms and conditions of probation. Failure to submit
11 timely reports in a form as directed shall be considered a violation of probation. Any period(s) of
12 delinquency in submission of reports as directed may be added to the total period of probation.
13 Moreover, if the final probation report is not made as directed, probation shall be automatically
14 extended until such time as the final report is made and accepted by the board.

15 **3. Interview with the Board**

16 Upon receipt of reasonable prior notice, respondents' owner shall appear in person for
17 interviews with the board or its designee, at such intervals and locations as are determined by the
18 board or its designee. Failure to appear for any scheduled interview without prior notification to
19 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its
20 designee during the period of probation, shall be considered a violation of probation.

21 **4. Cooperate with Board Staff**

22 Respondents' owner shall cooperate with the board's inspection program and with the
23 board's monitoring and investigation of respondents' compliance with the terms and conditions of
24 their probation. Failure to cooperate shall be considered a violation of probation.

25 **5. Reimbursement of Board Costs**

26 As a condition precedent to successful completion of probation, respondents' owner shall
27 pay to the board its costs of investigation and prosecution in the amount of \$11,584.00.

28 Respondents shall make said payments on a payment plan approved by the Board. There shall be

no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondents' owner shall not relieve respondents of their responsibility to reimburse the board its costs of investigation and prosecution.

6. Probation Monitoring Costs

Respondents' owner shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

7. Status of License

Respondents' owner shall, at all times while on probation, maintain current licensure with the board. If respondents' owner submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondents' shall remain on probation as determined by the board. Failure to maintain current licensure shall be considered a violation of probation.

If respondents' owner's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof or otherwise, upon renewal or reapplication respondents' owner's license shall be subject to all terms and conditions of this probation not previously satisfied.

8. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondents' owner discontinue business, respondents' owner may tender the premises license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondents will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondents' owner shall relinquish the premises wall and renewal license to the board within ten (10) days of notification by the board that the

1 surrender is accepted. Respondents' owner shall further submit a completed Discontinuance of
2 Business form according to board guidelines and shall notify the board of the records inventory
3 transfer.

4 Respondents' owner shall also, by the effective date of this decision, arrange for the
5 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
6 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
7 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
8 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
9 days of its provision to the pharmacy's ongoing patients, Respondents' owner shall provide a
10 copy of the written notice to the board. For the purposes of this provision, "ongoing patients"
11 means those patients for whom the pharmacy has on file a prescription with one or more refills
12 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
13 days.

14 Respondents' owner may not apply for any new licensure from the board for three (3) years
15 from the effective date of the surrender. Respondents' owner shall meet all requirements
16 applicable to the license sought as of the date the application for that license is submitted to the
17 board.

18 Respondents' owner further stipulates that he or she shall reimburse the board for its costs
19 of investigation and prosecution prior to the acceptance of the surrender.

20 9. Notice to Employees

21 Respondents' owner shall, upon or before the effective date of this decision, ensure that all
22 employees involved in permit operations are made aware of all the terms and conditions of
23 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
24 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
25 remain posted throughout the probation period. Respondents' owner shall ensure that any
26 employees hired or used after the effective date of this decision are made aware of the terms and
27 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
28 respondents' owner shall submit written notification to the board, within fifteen (15) days of the

1 effective date of this decision, that this term has been satisfied. Failure to submit such
2 notification to the board shall be considered a violation of probation.

3 "Employees" as used in this provision includes all full-time, part-time,
4 volunteer, temporary and relief employees and independent contractors employed or
5 hired at any time during probation.

6 **10. Owners and Officers: Knowledge of the Law**

7 Respondents shall provide, within thirty (30) days after the effective date of this decision,
8 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
9 or more of the interest in respondents or respondents' stock, and any officer, stating under penalty
10 of perjury that said individuals have read and are familiar with state and federal laws and
11 regulations governing the practice of pharmacy. The failure to timely provide said statements
12 under penalty of perjury shall be considered a violation of probation.

13 **11. Posted Notice of Probation**

14 Respondents' owner shall prominently post a probation notice provided by the board in a
15 place conspicuous and readable to the public. The probation notice shall remain posted during
16 the entire period of probation.

17 Respondents' owner shall not, directly or indirectly, engage in any conduct or make any
18 statement which is intended to mislead or is likely to have the effect of misleading any patient,
19 customer, member of the public, or other person(s) as to the nature of and reason for the probation
20 of the licensed entity.

21 Failure to post such notice shall be considered a violation of probation.

22 **12. Violation of Probation**

23 If a respondents' owner has not complied with any term or condition of probation, the board
24 shall have continuing jurisdiction over respondents' licenses, and probation shall be automatically
25 extended until all terms and conditions have been satisfied or the board has taken other action as
26 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
27 probation, and to impose the penalty that was stayed.

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1 If respondents' owner violates probation in any respect, the board, after giving respondents'
2 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
3 order that was stayed. Notice and opportunity to be heard are not required for those provisions
4 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of
5 the license. If a petition to revoke probation or an accusation is filed against respondents during
6 probation, the board shall have continuing jurisdiction and the period of probation shall be
7 automatically extended until the petition to revoke probation or accusation is heard and decided,
8 and all charges and allegations in Accusation No. 4567 shall be deemed true and correct.

9 **13. Completion of Probation**

10 Upon written notice by the board or its designee indicating successful completion of
11 probation, respondents' licenses will be fully restored.

12 **14. Suspension**

13 Original Pharmacy Permit Number PHY 50302 and Sterile Compounding Permit No. LSC
14 99642 issued to Respondents are suspended, beginning with the effective date of this decision,
15 until the time in which forty (40) hours of in-person remedial education in sterile compounding
16 are completed by Brian Goldstein, Eugene Braddy, Naomi Parvizi and any other licensed
17 employees of the Respondents. The in-person training may be completed prior to the execution
18 of this stipulation, and Complainant shall render full credit for all satisfactory completion of this
19 requirement that is successfully fulfilled before the effective date of its decision.

20 Respondents shall cease all pharmacy operations during the period of suspension. Failure
21 to comply with this suspension shall be considered a violation of probation.

22 **15. Accreditation by PCAP and NABP**

23 During the period of probation Respondents shall obtain semi-annual accreditation by the
24 Pharmacy Compounding Accreditation Board (PCAB) and annual accreditation by the National
25 Association of Boards of Pharmacy (NABP).

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DATED: 12-12-16

DATED: 12/16/2016

Dated: 12/19/16

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO RX UNLIMITED, LLC DBA RX UNLIMITED
PHARMACY ONLY (4567)

Exhibit A

Second Amended Accusation No. 4567

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
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Telephone: (213) 897-3465
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Attorneys for Complainant
7

8 BEFORE THE
9 BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4567

12 RX UNLIMITED LLC
13 RX UNLIMITED PHARMACY
6815 Noble Ave. Ste. 107
14 Van Nuys, CA 91405

SECOND AMENDED ACCUSATION

15 Pharmacy Permit No. PHY 50302
16 Sterile Compounding Permit No. LSC 99642

17 and

18 Clifton Eugene Braddy
18333 Hatteras St. #110
19 Tarzana, CA 91356

20 Pharmacist License No. RPH 45546

21 Respondents.
22
23

24 Complainant alleges:

25 PARTIES

26 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in
27 her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

2. On or about August 14, 1992, the Board issued Pharmacist License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on April 30, 2016, unless renewed.

3. On or about June 28, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50302 to RX Unlimited LLC, dba RX Unlimited Pharmacy with the address of record of 6815 Noble Ave., Ste. 107, Van Nuys, California 91405 (Respondent RX Unlimited). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

4. On or about September 28, 2010, the Board issued Sterile Compounding Permit Number LSC 99642 to RX Unlimited LLC, dba RX Unlimited Pharmacy to compound injectable sterile drug products. The Sterile Compounding Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

JURISDICTION

5. This Second Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 118, subdivision (b), provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

7. Section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board, whose default
2 has been entered or whose case has been heard by the board and found guilty, by any of the
3 following methods:

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

6 (3) Suspending his or her right to practice for a period not exceeding one year.

7 (4) Revoking his or her license.

8 (5) Taking any other action in relation to disciplining him or her as the board in its
9 discretion may deem proper."

10 8. Section 4169 states, in pertinent part:

11 "(a) A person or entity may not do any of the following:

12 ...

13 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
14 should have known were misbranded, as defined in Section 111335 of the Health and Safety
15 Code."

16 9. Section 4342 states, in pertinent part:

17 "(a) The board may institute any action or actions as may be provided by law and that, in
18 its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do
19 not conform to the standard and tests as to quality and strength, provided in the latest edition of
20 the United States Pharmacopoeia or the National Formulary, or that violate any provision of the
21 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
22 104 of the Health and Safety Code)."

23 REGULATORY PROVISIONS

24 10. California Code of Regulations, title 16, section 1735.3 states:

25 "(a) For each compounded drug product, the pharmacy records shall include:

26 ...

27 (6) The manufacturer, expiration date and lot number of each component. If the
28 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted,

1 Exempt from the requirements in this paragraph are sterile products compounded on a one-time
2 basis for administration within seventy-two (72) hours and stored in accordance with standards
3 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National
4 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,
5 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

6 11. California Code of Regulations, title 16, section 1751.7, subdivision (c) states in
7 pertinent part that batch-produced sterile injectable drug products compounded from one or more
8 non-sterile ingredients shall be subject to documented end product testing for sterility and
9 pyrogens and shall be quarantined until the end product testing confirms sterility and acceptable
10 levels of pyrogens.

11 12. California Code of Regulations, title 16, section 1735.2 subdivisions (c) and (h)
12 state as follows:

13 "..."

14 "(c) Pursuant to Business and Professions Code section 4052 (a)(1), a "reasonable
15 quantity" of compounded drug product may be furnished to a prescriber for office use upon
16 prescriber order, where "reasonable quantity" is that amount of compounded drug product that:

17 (1) is sufficient for administration or application to patients in the prescriber's
18 office, or for distribution of not more than a 72-hour supply to the prescriber's patients, as
19 estimated by the prescriber; and

20 (2) is reasonable considering the intended use of the compounded medication and
21 the nature of the prescriber's practice; and

22 (3) for any individual prescriber and for all prescribers taken as a whole, is an
23 amount which the pharmacy is capable of compounding in compliance with
24 pharmaceutical standards for integrity, potency, quality and strength of the compounded
25 drug product."

26 "..."

27 "(h) Every compounded drug product shall be given an expiration date representing the
28 date beyond which, in the professional judgment of the pharmacist performing or supervising the

1 compounding, it should not be used. This "beyond use date" of the compounded drug product
2 shall not exceed 180 days from preparation or the shortest expiration date of any component in
3 the compounded drug product, unless a longer date is supported by stability studies of finished
4 drugs or compounded drug products using the same components and packaging. Shorter dating
5 than set forth in this subsection may be used if it is deemed appropriate in the professional
6 judgment of the responsible pharmacist."

7 "...."

8 COST RECOVERY

9 13. Section 125.3 states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 DRUG DEFINITIONS

14 14. Tri-Mix, is a sterile injectable compound comprised of three different ingredients:
15 alprostadil, phentolamine, and papaverine. All three of the products are dangerous drugs pursuant
16 to Business and Professions Code Section 4022 (c).
17

18 15. Nandrolone Decanoate 200mg/ml injection, brand name "Androlone", is used to
19 treat anemia in patients with kidney failure, is classified as a Schedule III controlled substance
20 under the Anabolic Steroids Control Act of 1990 as designated by Health and Safety Code section
21 11056 and is categorized as a dangerous drug pursuant to Business and Professions Code section
22 4022.

23 16. Hydroxyprogesterone Caproate, brand name "Makena", is a synthetic, steroidal
24 progestin that is used in pregnancy to prevent preterm labor in women, and is categorized as a
25 dangerous drug pursuant to Business and Professions Code section 4022.
26

27 ///

28 ///

FACTUAL BACKGROUND

I. May 15, 2012 Inspection

17. On or about May 15, 2012, the Board conducted an annual licensed sterile compounding inspection (LSC Inspection) at Respondent RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404.

18. During the LSC Inspection, the Board inspector reviewed RX Unlimited's end-product test results to determine sterility of compounded products.

19. Respondent Braddy stated that RX Unlimited did not conduct in-house testing of the finalized products for sterility, but rather sent the products out to Eagle Analytical Services (Eagle) for testing.

20. The Board inspector learned that for some of the compounded product results, sterility and potency testing were completed but not pyrogen testing¹.

21. RX Unlimited Pharmacy Technician B.G.² informed the Board inspector that Respondents conducted in house pyrogen testing. Respondents failed to produce documentation of the pyrogen testing results upon request.

22. The Board inspector subsequently learned that RX Unlimited possessed pyrogen test kits, but never used any of them.

23. While reviewing Eagle's testing reports, the Board inspector also observed that the potency results of multiple compounds were outside of the normal range.

24. Respondent Braddy stated that the products outside of normal range were not dispensed to consumers.

¹ A pyrogen is a protein that can induce a fever in a patient by triggering a series of immune reactions. The guaranteed absence of pyrogens is a critical safety precaution for all drugs administered parenterally, since these contaminants can pose a life-threatening risk of shock to the patient. Pyrogen testing defines a process used by drug manufacturers to determine if bacterial toxins are present in vaccines and drugs that might cause fever when used on humans. It determines if microbes or their metabolites are present in intravenous solutions during the manufacturing process.

² For potential witnesses and/or patients, initials are used in lieu of names in order to protect the privacy rights of these individuals.

1 25. During the inspection, Respondents were unable to produce compounding
2 worksheets for all products identified by the Board inspector, however, Respondent Braddy
3 admitted that RX Unlimited did not test each and every batch of sterile products to make sure
4 they were sterile.

5 26. On or about September 14, 2012, the Board conducted a follow up inspection and
6 to obtain additional pharmacy records.

7 27. The inspector requested the dispensing reports of compounds identified during the
8 May 15, 2012 inspection which were found to have potency results outside acceptable potency
9 ranges for the compound.

10 28. A review of the compounding logs, laboratory testing results, and dispensing
11 reports for Tri-Mix (alprostadil-10mcg/papaverine-30mg/phentolamine-0.5mg) revealed
12 approximately 44 compounded prescriptions which were prepared as batch products from a non-
13 sterile source and found to be outside of expected potency ranges were dispensed to consumers.

14 29. The Board inspector also selected a sample of compounding logs for end-product
15 testing and requested the prescription dispensing history for those specific lots.

16 30. The records revealed that approximately 105 sterile injectable compounded
17 prescriptions prepared as batch products from a non-sterile source were dispensed to consumers
18 without first conducting end product sterility and pyrogen testing.

19 31. A sample of compounding worksheet records also revealed that Respondent failed
20 to document the manufacturer of each ingredient used to prepare approximately 15 compounds
21 for Tri-Mix, Nandrolone, Progesterone, Testosterone, Tri-Mix XL and Quad-Mix.

22 32. A written notice of non-compliance was given to Respondents Braddy and RX
23 Unlimited at the end of the inspection.

24 **II. February 13, 2013 Inspection**

25 33. On or about February 13, 2013, the Board conducted an inspection at Respondent
26 RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404 after a complaint was
27 made by T.Corp. alleging that Respondents continued to compound large quantities of
28

1 hydroxyprogesterone caproate (HPC) injection outside the scope of traditional pharmacy
2 compounding.

3 34. Respondent Clifton Braddy was not present during the inspection. Pharmacist
4 N.P. was present and provided the documents requested during the inspection. At the conclusion
5 of the inspection, Respondent Braddy was notified that he was required to supplement the
6 documents collected during the inspection within 14 days. After review of all documents
7 provided at the inspection site, as well as those provided thereafter by Respondents, the following
8 findings were made.

9 35. Respondents' sterile compounding worksheets were reviewed and revealed that the
10 Respondents were compounding nandrolone deconoate 200mg/ml injection with a beyond the use
11 date of 180 days despite the Master Formula's estimated 90 days beyond the use date.
12 Respondents were unable to provide stability studies that supported the 180 days beyond the use
13 date for the nandrolone deconoate 200mg/ml.

14 36. Respondents' compounding logs revealed that they were compounding and
15 dispensing HPC injections outside of the scope of traditional pharmacy compounding practices in
16 that the HPC injections were commercially available in the marketplace and there was no specific
17 need for said drug. The records revealed that a total of six (6) prescriptions were filled from
18 January 1, 2012 through February 13, 2013 as follows: RX No. 100897, dispensed June 19,
19 2012, RX No. 100898, dispensed June 19, 2012, RX No. 100907, dispensed June 21, 2012, RX
20 No. 100907, dispensed September 5, 2012, RX No. 101765, dispensed November 27, 2012, and
21 RX No. 101765, dispensed December 28, 2012.

22 FIRST CAUSE FOR DISCIPLINE

23 (Misbranded Drugs)

24 37. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
25 action under section 4169 subdivision (a)(3) in conjunction with section 4342 in that inspections
26 conducted on or about May 15, 2012, and September 13, 2012, revealed that Respondents
27 purchased, traded, sold or transferred dangerous drugs that Respondents knew or should have
28

1 reasonably known were misbranded, as defined in section 11135 of the Health and Safety Code.
2 Complainant incorporates by reference paragraphs 17 – 32, as if fully set forth herein.

3 SECOND CAUSE FOR DISCIPLINE

4 (Sterile Compounding – Quality Assurance)

5 38. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
6 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1751.7,
7 subdivision (c) in that an inspection conducted on September 14, 2012, revealed that Respondents
8 did not test for sterility and pyrogen for each sterile injectable batch product prepared from a non-
9 sterile source prior to dispensing the product. Complainant incorporates by reference paragraphs
10 17 – 32, as if fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Records of Compounding Drug Products)

13 39. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
14 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.3,
15 subdivision (a) (6) in that inspections conducted on or about May 15, 2012, and September 13,
16 2012, revealed that Respondents failed to identify the name of the manufacturer of each
17 ingredient of a compounded drug prior to dispensing the product. Complainant incorporates by
18 reference paragraphs 26 – 32, as if fully set forth herein.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Compounding Limitations and Requirements; Self Assessment)

21 40. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
22 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 Section 1735.2,
23 subdivision (h) in that the inspection on February 13, 2013, and the records thereafter provided,
24 revealed that Respondents had compounding worksheets for nandrolone deconoate 200/mg/ml
25 that showed a beyond the use date of 180 days despite a master formula estimated 90 days beyond
26 the use date. In addition, Respondents were unable to provide stability studies that supported the
27 beyond the use date of 180 days. Complainant incorporates by reference paragraphs 33 - 35, as if
28 fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Compounding Limitations)

3 41. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
4 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.2,
5 subdivision (c) in that the inspection on February 13, 2013, and the records thereafter provided,
6 revealed that Respondents were compounding and dispensing HPC injections in a form that is
7 essentially a copy of a product which is commercially available in the market place. Complainant
8 incorporates by reference paragraphs 33, 34 & 36, as if fully set forth herein.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

- 12 1. Revoking or suspending Pharmacist License Number RPH 45546 issued to Clifton
13 Eugene Braddy;
- 14 2. Revoking or suspending Sterile Compounding Permit Number LSC 99642 issued
15 to RX Unlimited LLC;
- 16 3. Revoking or suspending Pharmacy Permit Number PHY 50302, issued to RX
17 Unlimited LLC, dba RX Unlimited Pharmacy;
- 18 4. Ordering RX Unlimited LLC and Clifton Eugene Braddy, Pharmacist-in-Charge,
19 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3; and
- 21 5. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/3/15

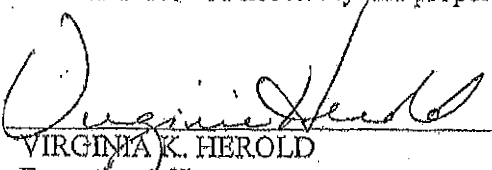

24 VIRGINIA K. HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

EXHIBIT "B"

Decision and Order in Accusation Case No. 4567 (Respondent Braddy)

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED LLC
RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.
North Hills, CA 91343

Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642

and

CLIFTON EUGENE BRADDY
18333 Hatteras St. #110
Tarzana, CA 91356

Pharmacist License No. RPH 45546

Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
CLIFTON EUGENE BRADDY ONLY**

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 13, 2017.

It is so ORDERED on February 10, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
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5 Los Angeles, CA 90013
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Second Accusation
11 Against:
12 **RX UNLIMITED LLC**
13 **RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.,
North Hills, CA 91343
14 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642
15
16 and
17 **CLIFTON EUGENE BRADDY**
18 18333 Hatteras St. #110
Tarzana, CA 91356
19 Pharmacist License No. RPH 45546
20 Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
CLIFTON EUGENE BRADDY ONLY**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
28 General.

2. Respondent RX Unlimited, LLC dba RX Unlimited Pharmacy is represented in this proceeding by attorney Tony J. Park, whose address is: 2855 Michelle, Ste. 180, Irvine, CA 92606.

3. On or about August 14, 1992, the Board of Pharmacy issued Pharmacist License No. RPH 45546 to Clifton Eugene Braddy (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in the Second Amended Accusation, No. 4567 and will expire on April 30, 2018, unless renewed.

JURISDICTION

4. The Accusation, First Amended Accusation and Second Amended Accusation No. 4567 were filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and the Second Amended Accusation is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on May 4, 2015. Respondent timely filed its Notice of Defense contesting the Second Amended Accusation.

5. A copy of the Second Amended Accusation No. 4567 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the Second Amended Accusation No. 4567. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

1 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
2 every right set forth above.

3 CULPABILITY

4 9. Respondent understands and agrees that the charges and allegations in Accusation
5 No. 4567, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
6 License No. RPH 45546.

7 10. For the purpose of resolving the Accusation without the expense and uncertainty of
8 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
9 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
10 those charges.

11 11. Respondent agrees that his Pharmacist License is subject to discipline and he to be
12 bound by the Board's probationary terms as set forth in the Disciplinary Order below.

13 CONTINGENCY

14 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
15 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
16 communicate directly with the Board regarding this stipulation and settlement, without notice to
17 or participation by Respondent or his counsel. By signing the stipulation, Respondent
18 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
19 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
20 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
21 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
22 and the Board shall not be disqualified from further action by having considered this matter.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
25 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. RPH 45546 issued to Respondent
9 Clifton Eugene Braddy (Respondent) is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for five (5) years on the following terms and conditions.

11 **1. Obey All Laws**

12 Respondent shall obey all state and federal laws and regulations.

13 Respondent shall report any of the following occurrences to the board, in writing, within
14 seventy-two (72) hours of such occurrence:

- 15 • an arrest or issuance of a criminal complaint for violation of any provision of the
16 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
17 substances laws
- 18 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
19 criminal complaint, information or indictment
- 20 • a conviction of any crime
- 21 • discipline, citation, or other administrative action filed by any state or federal agency
22 which involves respondent's pharmacist license or which is related to the practice of
23 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
24 for any drug, device or controlled substance.

25 Failure to timely report such occurrence shall be considered a violation of probation.

26 **2. Report to the Board**

27 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
28 designee. The report shall be made either in person or in writing, as directed. Among other

1 requirements, respondent shall state in each report under penalty of perjury whether there has
2 been compliance with all the terms and conditions of probation. Failure to submit timely reports
3 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
4 in submission of reports as directed may be added to the total period of probation. Moreover, if
5 the final probation report is not made as directed, probation shall be automatically extended until
6 such time as the final report is made and accepted by the board.

7 **3. Interview with the Board**

8 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
9 with the board or its designee, at such intervals and locations as are determined by the board or its
10 designee. Failure to appear for any scheduled interview without prior notification to board staff,
11 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
12 the period of probation, shall be considered a violation of probation.

13 **4. Cooperate with Board Staff**

14 Respondent shall cooperate with the board's inspection program and with the board's
15 monitoring and investigation of respondent's compliance with the terms and conditions of his
16 probation. Failure to cooperate shall be considered a violation of probation.

17 **5. Continuing Education**

18 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
19 pharmacist as directed by the board or its designee.

20 **6. Notice to Employers**

21 During the period of probation, respondent shall notify all present and prospective
22 employers of the decision in case number 4567 and the terms, conditions and restrictions imposed
23 on respondent by the decision, as follows:

24 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
25 respondent undertaking any new employment, respondent shall cause his direct supervisor,
26 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
27 tenure of employment) and owner to report to the board in writing acknowledging that the listed
28 individual(s) has/have read the decision in case number 4567, and terms and conditions imposed

1 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
2 submit timely acknowledgment(s) to the board.

3 If respondent works for or is employed by or through a pharmacy employment service,
4 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
5 licensed by the board of the terms and conditions of the decision in case number 4567 in advance
6 of the respondent commencing work at each licensed entity. A record of this notification must be
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of respondent undertaking any new employment by or through a pharmacy employment
10 service, respondent shall cause his direct supervisor with the pharmacy employment service to
11 report to the board in writing acknowledging that he has read the decision in case number 4567
12 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
13 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

14 Failure to timely notify present or prospective employer(s) or to cause that/those
15 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
16 probation.

17 "Employment" within the meaning of this provision shall include any full-time,
18 part-time, temporary, relief or pharmacy management service as a pharmacist or any
19 position for which a pharmacist license is a requirement or criterion for employment,
20 whether the respondent is an employee, independent contractor or volunteer.

21 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
22 **Designated Representative-in-Charge, or Serving as a Consultant**

23 During the period of probation, respondent shall not supervise any intern pharmacist, be the
24 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
25 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
26 unauthorized supervision responsibilities shall be considered a violation of probation.

27 ///

28 ///

1 **8. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, respondent shall pay to the
3 board its costs of investigation and prosecution in the amount of \$5,792.00. Respondent shall
4 make said payments on a payment plan approved by the Board.

5 There shall be no deviation from this schedule absent prior written approval by the board or
6 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
7 probation.

8 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
9 reimburse the board its costs of investigation and prosecution.

10 **9. Probation Monitoring Costs**

11 Respondent shall pay any costs associated with probation monitoring as determined by the
12 board each and every year of probation. Such costs shall be payable to the board on a schedule as
13 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
14 be considered a violation of probation.

15 **10. Status of License**

16 Respondent shall, at all times while on probation, maintain an active, current license with
17 the board, including any period during which suspension or probation is tolled. Failure to
18 maintain an active, current license shall be considered a violation of probation.

19 If respondent's license expires or is cancelled by operation of law or otherwise at any time
20 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
21 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
22 probation not previously satisfied.

23 **11. License Surrender While on Probation/Suspension**

24 Following the effective date of this decision, should respondent cease practice due to
25 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
26 respondent may tender his license to the board for surrender. The board or its designee shall have
27 the discretion whether to grant the request for surrender or take any other action it deems
28 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent

1 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
2 record of discipline and shall become a part of the respondent's license history with the board.

3 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
4 the board within ten (10) days of notification by the board that the surrender is accepted.

5 Respondent may not reapply for any license from the board for three (3) years from the effective
6 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
7 of the date the application for that license is submitted to the board, including any outstanding
8 costs.

9 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
10 **Employment**

11 Respondent shall notify the board in writing within ten (10) days of any change of
12 employment. Said notification shall include the reasons for leaving, the address of the new
13 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
14 shall further notify the board in writing within ten (10) days of a change in name, residence
15 address, mailing address, or phone number.

16 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
17 phone number(s) shall be considered a violation of probation.

18 **13. Tolling of Probation**

19 Except during periods of suspension, respondent shall, at all times while on probation, be
20 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
21 month during which this minimum is not met shall toll the period of probation, i.e., the period of
22 probation shall be extended by one month for each month during which this minimum is not met.
23 During any such period of tolling of probation, respondent must nonetheless comply with all
24 terms and conditions of probation.

25 Should respondent, regardless of residency, for any reason (including vacation) cease
26 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
27 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
28

1 must further notify the board in writing within ten (10) days of the resumption of practice. Any
2 failure to provide such notification(s) shall be considered a violation of probation.

3 It is a violation of probation for respondent's probation to remain tolled pursuant to the
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,
5 exceeding thirty-six (36) months.

6 "Cessation of practice" means any calendar month during which respondent is not
7 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code
8 section 4000 et seq. "Resumption of practice" means any calendar month during which
9 respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as defined by
10 Business and Professions Code section 4000 et seq."

11 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that
12 dispenses medication for a minimum of one year prior to the completion of probation. After the
13 first year of probation, the board or its designee may consider a modification of this requirement.
14 If respondent fails to comply with this requirement or a subsequent modification thereto, such
15 failure shall be considered a violation of probation.

16 14. Violation of Probation

17 If a respondent has not complied with any term or condition of probation, the board shall
18 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
19 all terms and conditions have been satisfied or the board has taken other action as deemed
20 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
21 to impose the penalty that was stayed.

22 If respondent violates probation in any respect, the board, after giving respondent notice
23 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
24 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
25 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
26 a petition to revoke probation or an accusation is filed against respondent during probation, the
27 board shall have continuing jurisdiction and the period of probation shall be automatically
28

1 extended until the petition to revoke probation or accusation is heard and decided, and charges
2 and allegations in Accusation No. 4567 shall be deemed true and correct.

3 **15. Completion of Probation**

4 Upon written notice by the board or its designee indicating successful completion of
5 probation, respondent's license will be fully restored.

6 **16. Suspension**

7 As part of probation, respondent is suspended from the practice of pharmacy up and until
8 forty (40) hours of in-person remedial education in sterile compounding is completed beginning
9 the effective date of this decision. The in-person training may be completed prior to the execution
10 of this stipulation, and Complainant shall render full credit for all satisfactory completion of this
11 requirement that is successfully fulfilled before the effective date of its decision.

12 During suspension, respondent shall not enter any pharmacy area or any portion of the
13 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
14 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
15 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
16 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
17 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
18 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
19 and devices or controlled substances.

20 Respondent shall not engage in any activity that requires the professional judgment of a
21 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
22 Respondent shall not perform the duties of a pharmacy technician or a designated representative
23 for any entity licensed by the board.

24 Subject to the above restrictions, respondent may continue to own or hold an interest in any
25 licensed premises in which he holds an interest at the time this decision becomes effective unless
26 otherwise specified in this order.

27 Failure to comply with this suspension shall be considered a violation of probation.
28

1 **17. Restricted Practice – No Sterile Compounding**

2 Respondent shall not prepare, oversee or participate in the preparation of sterile products at
3 any time in which he is licensed, regardless of whether he is on probation. Respondent
4 Pharmacist shall submit proof satisfactory to the board of compliance with this term of probation.
5 Failure to abide by this restriction or to timely submit proof to the board of compliance therewith
6 shall be considered a violation of probation.

7 **18. Remedial Education**

8 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
9 board or its designee, for prior approval, an appropriate program of remedial education related to
10 sterile compounding. The program of remedial education shall consist of at least forty (40) hours,
11 which shall be completed at respondent's own expense. All remedial education shall be in
12 addition to, and shall not be credited toward, continuing education (CE) courses used for license
13 renewal purposes.

14 Failure to timely submit or complete the approved remedial education shall be considered a
15 violation of probation. The period of probation will be automatically extended until such
16 remedial education is successfully completed and written proof, in a form acceptable to the board,
17 is provided to the board or its designee.

18 Following the completion of each course, the board or its designee may require the
19 respondent, at his own expense, to take an approved examination to test the respondent's
20 knowledge of the course. If the respondent does not achieve a passing score on the examination,
21 this failure shall be considered a violation of probation. Any such examination failure shall
22 require respondent to take another course approved by the board in the same subject area.

23 **19. No Ownership of Licensed Premises**

24 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
25 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
26 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
27 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
28 days following the effective date of this decision and shall immediately thereafter provide written

1 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
2 documentation thereof shall be considered a violation of probation.

3 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
4 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
5 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
6 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
7 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
8 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
9 that interest, but only to the extent of that position or interest as of the effective date of this
10 decision. Violation of this restriction shall be considered a violation of probation.

11 **20. Ethics Course**

12 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
13 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
14 Failure to initiate the course during the first year of probation, and complete it within the second
15 year of probation, is a violation of probation.

16 Respondent shall submit a certificate of completion to the board or its designee within five
17 days after completing the course.

18 **21. Supervised Practice**

19 During the period of probation, respondent shall practice only under the supervision of a
20 licensed pharmacist not on probation with the board. Upon and after the effective date of this
21 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
22 until a supervisor is approved by the board or its designee.

23 The supervision shall be, as required by the board or its designee, set as:

24 Daily Review - Supervisor's review of probationer's daily activities within 24 hours. "Daily
25 review" as this term is used herein shall not require that the supervising pharmacist be engaged in
26 physical supervision of respondent's activities in real time, but shall require that the supervising
27 pharmacist, by no later than close of business on each day following, review all transactions
28

1 performed by respondent and records associated with those transactions to ensure compliance
2 with state and federal statutes and regulations and with the requirements of this decision.

3 If respondent violates probation in any respect, the board or its designee shall have the power
4 to impose any of the following supervision restrictions:

5 Continuous - At least 75% of a work week

6 Substantial - At least 50% of a work week

7 Partial - At least 25% of a work week

8 Within thirty (30) days of the effective date of this decision, respondent shall have his
9 supervisor submit notification to the board in writing stating that the supervisor has read the
10 decision in case number 4567 and is familiar with the required level of supervision as determined
11 by the board or its designee. It shall be the respondent's responsibility to ensure that his
12 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
13 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
14 acknowledgements to the board shall be considered a violation of probation.

15 If respondent changes employment, it shall be the respondent's responsibility to ensure that
16 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
17 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
18 commences, submit notification to the board in writing stating the direct supervisor and
19 pharmacist-in-charge have read the decision in case number 4567, and is familiar with the level of
20 supervision as determined by the board. Respondent shall not practice pharmacy and his license
21 shall be automatically suspended until the board or its designee approves a new supervisor.
22 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
23 acknowledgements to the board shall be considered a violation of probation.

24 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

25 During suspension, respondent shall not enter any pharmacy area or any portion of the
26 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
27 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
28 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
3 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
4 and controlled substances. Respondent shall not resume practice until notified by the board.

5 During suspension, respondent shall not engage in any activity that requires the
6 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
7 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
8 designated representative for any entity licensed by the board.

9 Failure to comply with this suspension shall be considered a violation of probation.

10
11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Tony J. Park. I understand the stipulation and the effect it will
14 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
15 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
16 Board of Pharmacy.

17
18 DATED: 12/13/16

Clifton Eugene Braddy
CLIFTON EUGENE BRADDY
Respondent

20
21 I have read and fully discussed with Respondent Clifton Eugene Braddy the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve his form and content.

24
25 DATED: 12/16/2016

Tony J. Park
TONY J. PARK
Attorney for Respondent

ENDORSEMENT

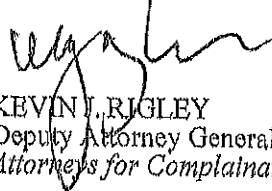
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated:

12/19/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Second Amended Accusation No. 4567

1 KAMALA D. HARRIS
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3 LESLIE A. WALDEN
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4567

12 **RX UNLIMITED LLC**
13 **RX UNLIMITED PHARMACY**
6815 Noble Ave. Ste. 107
14 Van Nuys, CA 91405

SECOND AMENDED ACCUSATION

15 Pharmacy Permit No. PHY 50302
16 Sterile Compounding Permit No. LSC 99642

17 and

18 **Clifton Eugene Braddy**
18333 Hatteras St. #110
19 Tarzana, CA 91356

20 Pharmacist License No. RPH 45546

21 Respondents,
22
23

24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in
27 her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

2. On or about August 14, 1992, the Board issued Pharmacist License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on April 30, 2016, unless renewed.

3. On or about June 28, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50302 to RX Unlimited LLC, dba RX Unlimited Pharmacy with the address of record of 6815 Noble Ave., Ste. 107, Van Nuys, California 91405 (Respondent RX Unlimited). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

4. On or about September 28, 2010, the Board issued Sterile Compounding Permit Number LSC 99642 to RX Unlimited LLC, dba RX Unlimited Pharmacy to compound injectable sterile drug products. The Sterile Compounding Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

JURISDICTION

5. This Second Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 118, subdivision (b), provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

7. Section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board, whose default
2 has been entered or whose case has been heard by the board and found guilty, by any of the
3 following methods:

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

6 (3) Suspending his or her right to practice for a period not exceeding one year.

7 (4) Revoking his or her license.

8 (5) Taking any other action in relation to disciplining him or her as the board in its
9 discretion may deem proper."

10 8. Section 4169 states, in pertinent part:

11 "(a) A person or entity may not do any of the following:

12 ...

13 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
14 should have known were misbranded, as defined in Section 111335 of the Health and Safety
15 Code."

16 9. Section 4342 states, in pertinent part:

17 "(a) The board may institute any action or actions as may be provided by law and that, in
18 its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do
19 not conform to the standard and tests as to quality and strength, provided in the latest edition of
20 the United States Pharmacopoeia or the National Formulary, or that violate any provision of the
21 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
22 104 of the Health and Safety Code)."

23 REGULATORY PROVISIONS

24 10. California Code of Regulations, title 16, section 1735.3 states:

25 "(a) For each compounded drug product, the pharmacy records shall include:

26 ...

27 (6) The manufacturer, expiration date and lot number of each component. If the
28 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted,

1 Exempt from the requirements in this paragraph are sterile products compounded on a one-time
2 basis for administration within seventy-two (72) hours and stored in accordance with standards
3 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National
4 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,
5 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

6 11. California Code of Regulations, title 16, section 1751.7, subdivision (c) states in
7 pertinent part that batch-produced sterile injectable drug products compounded from one or more
8 non-sterile ingredients shall be subject to documented end product testing for sterility and
9 pyrogens and shall be quarantined until the end product testing confirms sterility and acceptable
10 levels of pyrogens.

11 12. California Code of Regulations, title 16, section 1735.2 subdivisions (c) and (h)
12 state as follows:

13 "..."

14 "(c) Pursuant to Business and Professions Code section 4052 (a)(1), a "reasonable
15 quantity" of compounded drug product may be furnished to a prescriber for office use upon
16 prescriber order, where "reasonable quantity" is that amount of compounded drug product that:

17 (1) is sufficient for administration or application to patients in the prescriber's
18 office, or for distribution of not more than a 72-hour supply to the prescriber's patients, as
19 estimated by the prescriber; and

20 (2) is reasonable considering the intended use of the compounded medication and
21 the nature of the prescriber's practice; and

22 (3) for any individual prescriber and for all prescribers taken as a whole, is an
23 amount which the pharmacy is capable of compounding in compliance with
24 pharmaceutical standards for integrity, potency, quality and strength of the compounded
25 drug product."

26 "..."

27 "(h) Every compounded drug product shall be given an expiration date representing the
28 date beyond which, in the professional judgment of the pharmacist performing or supervising the

1 compounding, it should not be used. This "beyond use date" of the compounded drug product
2 shall not exceed 180 days from preparation or the shortest expiration date of any component in
3 the compounded drug product, unless a longer date is supported by stability studies of finished
4 drugs or compounded drug products using the same components and packaging. Shorter dating
5 than set forth in this subsection may be used if it is deemed appropriate in the professional
6 judgment of the responsible pharmacist."

7 "...."

8 COST RECOVERY

9 13. Section 125.3 states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 DRUG DEFINITIONS

14 14. Tri-Mix, is a sterile injectable compound comprised of three different ingredients:
15 alprostadil, phentolamine, and papaverine. All three of the products are dangerous drugs pursuant
16 to Business and Professions Code Section 4022 (c).
17

18 15. Nandrolone Decanoate 200mg/ml injection, brand name "Androlone", is used to
19 treat anemia in patients with kidney failure, is classified as a Schedule III controlled substance
20 under the Anabolic Steroids Control Act of 1990 as designated by Health and Safety Code section
21 11056 and is categorized as a dangerous drug pursuant to Business and Professions Code section
22 4022.

23 16. Hydroxyprogesterone Caproate, brand name "Makena", is a synthetic, steroidal
24 progestin that is used in pregnancy to prevent preterm labor in women, and is categorized as a
25 dangerous drug pursuant to Business and Professions Code section 4022.
26

27 ///

28 ///

1 FACTUAL BACKGROUND

2 I. May 15, 2012 Inspection

3 17. On or about May 15, 2012, the Board conducted an annual licensed sterile
4 compounding inspection (LSC Inspection) at Respondent RX Unlimited, located at 6815 Noble
5 Ave. #107, Van Nuys, CA 91404.

6 18. During the LSC Inspection, the Board inspector reviewed RX Unlimited's end-
7 product test results to determine sterility of compounded products.

8 19. Respondent Braddy stated that RX Unlimited did not conduct in-house testing of
9 the finalized products for sterility, but rather sent the products out to Eagle Analytical Services
10 (Eagle) for testing.

11 20. The Board inspector learned that for some of the compounded product results,
12 sterility and potency testing were completed but not pyrogen testing¹.

13 21. RX Unlimited Pharmacy Technician B.G.² informed the Board inspector that
14 Respondents conducted in house pyrogen testing. Respondents failed to produce documentation
15 of the pyrogen testing results upon request.

16 22. The Board inspector subsequently learned that RX Unlimited possessed pyrogen
17 test kits, but never used any of them.

18 23. While reviewing Eagle's testing reports, the Board inspector also observed that the
19 potency results of multiple compounds were outside of the normal range.

20 24. Respondent Braddy stated that the products outside of normal range were not
21 dispensed to consumers.
22
23

24 ¹ A pyrogen is a protein that can induce a fever in a patient by triggering a series of immune reactions. The
25 guaranteed absence of pyrogens is a critical safety precaution for all drugs administered parenterally, since these
26 contaminants can pose a life-threatening risk of shock to the patient. Pyrogen testing defines a process used by drug
27 manufacturers to determine if bacterial toxins are present in vaccines and drugs that might cause fever when used on
humans. It determines if microbes or their metabolites are present in intravenous solutions during the manufacturing
process.

28 ² For potential witnesses and/or patients, initials are used in lieu of names in order to protect the privacy rights of
these individuals.

1 25. During the inspection, Respondents were unable to produce compounding
2 worksheets for all products identified by the Board inspector, however, Respondent Braddy
3 admitted that RX Unlimited did not test each and every batch of sterile products to make sure
4 they were sterile.

5 26. On or about September 14, 2012, the Board conducted a follow up inspection and
6 to obtain additional pharmacy records.

7 27. The inspector requested the dispensing reports of compounds identified during the
8 May 15, 2012 inspection which were found to have potency results outside acceptable potency
9 ranges for the compound.

10 28. A review of the compounding logs, laboratory testing results, and dispensing
11 reports for Tri-Mix (alprostadil-10mcg/papaverine-30mg/phentolamine-0.5mg) revealed
12 approximately 44 compounded prescriptions which were prepared as batch products from a non-
13 sterile source and found to be outside of expected potency ranges were dispensed to consumers.

14 29. The Board inspector also selected a sample of compounding logs for end-product
15 testing and requested the prescription dispensing history for those specific lots.

16 30. The records revealed that approximately 105 sterile injectable compounded
17 prescriptions prepared as batch products from a non-sterile source were dispensed to consumers
18 without first conducting end product sterility and pyrogen testing.

19 31. A sample of compounding worksheet records also revealed that Respondent failed
20 to document the manufacturer of each ingredient used to prepare approximately 15 compounds
21 for Tri-Mix, Nandrolone, Progesterone, Testosterone, Tri-Mix XL and Quad-Mix.

22 32. A written notice of non-compliance was given to Respondents Braddy and RX
23 Unlimited at the end of the inspection.

24 **II. February 13, 2013 Inspection**

25 33. On or about February 13, 2013, the Board conducted an inspection at Respondent
26 RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404 after a complaint was
27 made by T.Corp. alleging that Respondents continued to compound large quantities of
28

1 hydroxyprogesterone caproate (HPC) injection outside the scope of traditional pharmacy
2 compounding.

3 34. Respondent Clifton Braddy was not present during the inspection. Pharmacist
4 N.P. was present and provided the documents requested during the inspection. At the conclusion
5 of the inspection, Respondent Braddy was notified that he was required to supplement the
6 documents collected during the inspection within 14 days. After review of all documents
7 provided at the inspection site, as well as those provided thereafter by Respondents, the following
8 findings were made.

9 35. Respondents' sterile compounding worksheets were reviewed and revealed that the
10 Respondents were compounding nandrolone deconoate 200mg/ml injection with a beyond the use
11 date of 180 days despite the Master Formula's estimated 90 days beyond the use date.
12 Respondents were unable to provide stability studies that supported the 180 days beyond the use
13 date for the nandrolone deconoate 200mg/ml.

14 36. Respondents' compounding logs revealed that they were compounding and
15 dispensing HPC injections outside of the scope of traditional pharmacy compounding practices in
16 that the HPC injections were commercially available in the marketplace and there was no specific
17 need for said drug. The records revealed that a total of six (6) prescriptions were filled from
18 January 1, 2012 through February 13, 2013 as follows: RX No. 100897, dispensed June 19,
19 2012, RX No. 100898, dispensed June 19, 2012, RX No. 100907, dispensed June 21, 2012, RX
20 No. 100907, dispensed September 5, 2012, RX No. 101765, dispensed November 27, 2012, and
21 RX No. 101765, dispensed December 28, 2012.

22 FIRST CAUSE FOR DISCIPLINE

23 (Misbranded Drugs)

24 37. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
25 action under section 4169 subdivision (a)(3) in conjunction with section 4342 in that inspections
26 conducted on or about May 15, 2012, and September 13, 2012, revealed that Respondents
27 purchased, traded, sold or transferred dangerous drugs that Respondents knew or should have
28

1 reasonably known were misbranded, as defined in section 11135 of the Health and Safety Code.
2 Complainant incorporates by reference paragraphs 17 – 32, as if fully set forth herein.

3 SECOND CAUSE FOR DISCIPLINE

4 (Sterile Compounding – Quality Assurance)

5 38. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
6 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1751.7,
7 subdivision (c) in that an inspection conducted on September 14, 2012, revealed that Respondents
8 did not test for sterility and pyrogen for each sterile injectable batch product prepared from a non-
9 sterile source prior to dispensing the product. Complainant incorporates by reference paragraphs
10 17 – 32, as if fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Records of Compounding Drug Products)

13 39. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
14 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.3,
15 subdivision (a) (6) in that inspections conducted on or about May 15, 2012, and September 13,
16 2012, revealed that Respondents failed to identify the name of the manufacturer of each
17 ingredient of a compounded drug prior to dispensing the product. Complainant incorporates by
18 reference paragraphs 26 – 32, as if fully set forth herein.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Compounding Limitations and Requirements; Self Assessment)

21 40. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
22 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 Section 1735.2,
23 subdivision (h) in that the inspection on February 13, 2013, and the records thereafter provided,
24 revealed that Respondents had compounding worksheets for nandrolone deconoate 200/mg/ml
25 that showed a beyond the use date of 180 days despite a master formula estimated 90 days beyond
26 the use date. In addition, Respondents were unable to provide stability studies that supported the
27 beyond the use date of 180 days. Complainant incorporates by reference paragraphs 33 - 35, as if
28 fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Compounding Limitations)

3 41. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
4 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.2,
5 subdivision (c) in that the inspection on February 13, 2013, and the records thereafter provided,
6 revealed that Respondents were compounding and dispensing HPC injections in a form that is
7 essentially a copy of a product which is commercially available in the market place. Complainant
8 incorporates by reference paragraphs 33, 34 & 36, as if fully set forth herein.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

12 1. Revoking or suspending Pharmacist License Number RPH 45546 issued to Clifton
13 Eugene Braddy;

14 2. Revoking or suspending Sterile Compounding Permit Number LSC 99642 issued
15 to RX Unlimited LLC;

16 3. Revoking or suspending Pharmacy Permit Number PHY 50302, issued to RX
17 Unlimited LLC, dba RX Unlimited Pharmacy;

18 4. Ordering RX Unlimited LLC and Clifton Eugene Braddy, Pharmacist-in-Charge,
19 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3; and

21 5. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/3/15

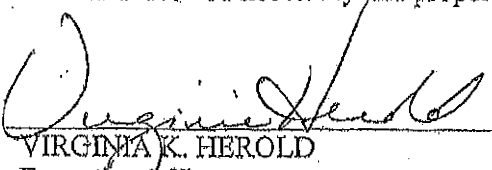

24 VIRGINIA K. HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

EXHIBIT “B”

Decision and Order in Accusation Case No. 4567

(Respondent Rx Unlimited Pharmacy, LLC – PHY 50302)

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED LLC
RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.
North Hills, CA 91343

Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642

and

CLIFTON EUGENE BRADY
18333 Hatteras St. #110
Tarzana, CA 91356

Pharmacist License No. RPH 45546

Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO RX
UNLIMITED, LLC DBA RX
UNLIMITED PHARMACY ONLY**

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 13, 2017.

It is so ORDERED on February 10, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
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2 LINDA L. SUN
Supervising Deputy Attorney General
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Telephone: (213) 620-2558
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 **RX UNLIMITED LLC**
RX UNLIMITED PHARMACY
12 16673 Roscoe Blvd.,
North Hills, CA 91343
13
14 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642
15 and
16 **CLIFTON EUGENE BRADY**
17 18333 Hatteras St. #110
Tarzana, CA 91356
18 Pharmacist License No. RPH 45546
19
20 Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO RX
UNLIMITED, LLC DBA RX
UNLIMITED PHARMACY ONLY**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
28 General.

1 represented by counsel at its own expense; the right to confront and cross-examine the witnesses
2 against them; the right to present evidence and to testify on its own behalf; the right to the
3 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
4 the right to reconsideration and court review of an adverse decision; and all other rights accorded
5 by the California Administrative Procedure Act and other applicable laws.

6 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
7 every right set forth above.

8 CULPABILITY

9 10. Respondents understand and agree that the charges and allegations in Accusation No.
10 4567, if proven at a hearing, constitute cause for imposing discipline upon Respondents'
11 pharmacy and sterile compounding licenses.

12 11. For the purpose of resolving the Accusation without the expense and uncertainty of
13 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
14 basis for the charges in the Accusation, and that Respondents hereby give up their right to contest
15 those charges.

16 12. Respondents agree that their pharmacy and sterile compounding licenses are subject
17 to discipline and agree to be bound by the Board's probationary terms as set forth in the
18 Disciplinary Order below.

19 CONTINGENCY

20 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
21 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
22 communicate directly with the Board regarding this stipulation and settlement, without notice to
23 or participation by Respondents or its counsel. By signing the stipulation, Respondents
24 understand and agree that they may not withdraw its agreement or seek to rescind the stipulation
25 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
26 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
27 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
28 and the Board shall not be disqualified from further action by having considered this matter.

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
3 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

4 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
9 writing executed by an authorized representative of each of the parties.

10 16. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Board may, without further notice or formal proceeding, issue and enter the following
12 Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Original Pharmacy Permit Number PHY 50302 and Sterile
15 Compounding Permit No. LSC 99642 issued to Respondent RX Unlimited, LLC dba RX
16 Unlimited Pharmacy ("Respondents") are revoked. However, the revocation is stayed and
17 Respondents are placed on probation for five (5) years on the following terms and conditions.

18 **1. Obey All Laws**

19 Respondents' owner shall obey all state and federal laws and regulations.

20 Respondents' owner shall report any of the following occurrences to the board, in writing,
21 within seventy-two (72) hours of such occurrence:

- 22 • an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
- 25 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
- 27 • a conviction of any crime
- 28 • discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's original pharmacy permit and sterile compounding
2 license or which is related to the practice of pharmacy or the manufacturing,
3 obtaining, handling or distributing, billing, or charging for any drug, device or
4 controlled substance.

5 Failure to timely report any such occurrence shall be considered a violation of probation.

6 **2. Report to the Board**

7 Respondents' owner shall report to the board quarterly, on a schedule as directed by the
8 board or its designee. The report shall be made either in person or in writing, as directed. Among
9 other requirements, respondents' owner shall state in each report under penalty of perjury whether
10 there has been compliance with all the terms and conditions of probation. Failure to submit
11 timely reports in a form as directed shall be considered a violation of probation. Any period(s) of
12 delinquency in submission of reports as directed may be added to the total period of probation.
13 Moreover, if the final probation report is not made as directed, probation shall be automatically
14 extended until such time as the final report is made and accepted by the board.

15 **3. Interview with the Board**

16 Upon receipt of reasonable prior notice, respondents' owner shall appear in person for
17 interviews with the board or its designee, at such intervals and locations as are determined by the
18 board or its designee. Failure to appear for any scheduled interview without prior notification to
19 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its
20 designee during the period of probation, shall be considered a violation of probation.

21 **4. Cooperate with Board Staff**

22 Respondents' owner shall cooperate with the board's inspection program and with the
23 board's monitoring and investigation of respondents' compliance with the terms and conditions of
24 their probation. Failure to cooperate shall be considered a violation of probation.

25 **5. Reimbursement of Board Costs**

26 As a condition precedent to successful completion of probation, respondents' owner shall
27 pay to the board its costs of investigation and prosecution in the amount of \$11,584.00.

28 Respondents shall make said payments on a payment plan approved by the Board. There shall be

no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondents' owner shall not relieve respondents of their responsibility to reimburse the board its costs of investigation and prosecution.

6. Probation Monitoring Costs

Respondents' owner shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

7. Status of License

Respondents' owner shall, at all times while on probation, maintain current licensure with the board. If respondents' owner submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondents' shall remain on probation as determined by the board. Failure to maintain current licensure shall be considered a violation of probation.

If respondents' owner's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof or otherwise, upon renewal or reapplication respondents' owner's license shall be subject to all terms and conditions of this probation not previously satisfied.

8. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondents' owner discontinue business, respondents' owner may tender the premises license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondents will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondents' owner shall relinquish the premises wall and renewal license to the board within ten (10) days of notification by the board that the

1 surrender is accepted. Respondents' owner shall further submit a completed Discontinuance of
2 Business form according to board guidelines and shall notify the board of the records inventory
3 transfer.

4 Respondents' owner shall also, by the effective date of this decision, arrange for the
5 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
6 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
7 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
8 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
9 days of its provision to the pharmacy's ongoing patients, Respondents' owner shall provide a
10 copy of the written notice to the board. For the purposes of this provision, "ongoing patients"
11 means those patients for whom the pharmacy has on file a prescription with one or more refills
12 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
13 days.

14 Respondents' owner may not apply for any new licensure from the board for three (3) years
15 from the effective date of the surrender. Respondents' owner shall meet all requirements
16 applicable to the license sought as of the date the application for that license is submitted to the
17 board.

18 Respondents' owner further stipulates that he or she shall reimburse the board for its costs
19 of investigation and prosecution prior to the acceptance of the surrender.

20 9. Notice to Employees

21 Respondents' owner shall, upon or before the effective date of this decision, ensure that all
22 employees involved in permit operations are made aware of all the terms and conditions of
23 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
24 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
25 remain posted throughout the probation period. Respondents' owner shall ensure that any
26 employees hired or used after the effective date of this decision are made aware of the terms and
27 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
28 respondents' owner shall submit written notification to the board, within fifteen (15) days of the

1 effective date of this decision, that this term has been satisfied. Failure to submit such
2 notification to the board shall be considered a violation of probation.

3 "Employees" as used in this provision includes all full-time, part-time,
4 volunteer, temporary and relief employees and independent contractors employed or
5 hired at any time during probation.

6 **10. Owners and Officers: Knowledge of the Law**

7 Respondents shall provide, within thirty (30) days after the effective date of this decision,
8 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
9 or more of the interest in respondents or respondents' stock, and any officer, stating under penalty
10 of perjury that said individuals have read and are familiar with state and federal laws and
11 regulations governing the practice of pharmacy. The failure to timely provide said statements
12 under penalty of perjury shall be considered a violation of probation.

13 **11. Posted Notice of Probation**

14 Respondents' owner shall prominently post a probation notice provided by the board in a
15 place conspicuous and readable to the public. The probation notice shall remain posted during
16 the entire period of probation.

17 Respondents' owner shall not, directly or indirectly, engage in any conduct or make any
18 statement which is intended to mislead or is likely to have the effect of misleading any patient,
19 customer, member of the public, or other person(s) as to the nature of and reason for the probation
20 of the licensed entity.

21 Failure to post such notice shall be considered a violation of probation.

22 **12. Violation of Probation**

23 If a respondents' owner has not complied with any term or condition of probation, the board
24 shall have continuing jurisdiction over respondents' licenses, and probation shall be automatically
25 extended until all terms and conditions have been satisfied or the board has taken other action as
26 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
27 probation, and to impose the penalty that was stayed.

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1 If respondents' owner violates probation in any respect, the board, after giving respondents'
2 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
3 order that was stayed. Notice and opportunity to be heard are not required for those provisions
4 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of
5 the license. If a petition to revoke probation or an accusation is filed against respondents during
6 probation, the board shall have continuing jurisdiction and the period of probation shall be
7 automatically extended until the petition to revoke probation or accusation is heard and decided,
8 and all charges and allegations in Accusation No. 4567 shall be deemed true and correct.

9 **13. Completion of Probation**

10 Upon written notice by the board or its designee indicating successful completion of
11 probation, respondents' licenses will be fully restored.

12 **14. Suspension**

13 Original Pharmacy Permit Number PHY 50302 and Sterile Compounding Permit No. LSC
14 99642 issued to Respondents are suspended, beginning with the effective date of this decision,
15 until the time in which forty (40) hours of in-person remedial education in sterile compounding
16 are completed by Brian Goldstein, Eugene Braddy, Naomi Parvizi and any other licensed
17 employees of the Respondents. The in-person training may be completed prior to the execution
18 of this stipulation, and Complainant shall render full credit for all satisfactory completion of this
19 requirement that is successfully fulfilled before the effective date of its decision.

20 Respondents shall cease all pharmacy operations during the period of suspension. Failure
21 to comply with this suspension shall be considered a violation of probation.

22 **15. Accreditation by PCAP and NABP**

23 During the period of probation Respondents shall obtain semi-annual accreditation by the
24 Pharmacy Compounding Accreditation Board (PCAB) and annual accreditation by the National
25 Association of Boards of Pharmacy (NABP).

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DATED: 12-12-16

DATED: 12/16/2016

Dated: 12/19/10

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO RX UNLIMITED, LLC DBA RX UNLIMITED
PHARMACY ONLY (4567)

Exhibit A

Second Amended Accusation No. 4567

1 KAMALA D. HARRIS
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2 ARMANDO ZAMBRANO
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3 LESLIE A. WALDEN
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Attorneys for Complainant
7

8 BEFORE THE
9 BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4567

12 RX UNLIMITED LLC
13 RX UNLIMITED PHARMACY
6815 Noble Ave. Ste. 107
14 Van Nuys, CA 91405

SECOND AMENDED ACCUSATION

15 Pharmacy Permit No. PHY 50302
16 Sterile Compounding Permit No. LSC 99642

17 and

18 Clifton Eugene Braddy
18333 Hatteras St. #110
19 Tarzana, CA 91356

20 Pharmacist License No. RPH 45546

21 Respondents.
22
23

24 Complainant alleges:

25 PARTIES

26 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in
27 her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

2. On or about August 14, 1992, the Board issued Pharmacist License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on April 30, 2016, unless renewed.

3. On or about June 28, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50302 to RX Unlimited LLC, dba RX Unlimited Pharmacy with the address of record of 6815 Noble Ave., Ste. 107, Van Nuys, California 91405 (Respondent RX Unlimited). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

4. On or about September 28, 2010, the Board issued Sterile Compounding Permit Number LSC 99642 to RX Unlimited LLC, dba RX Unlimited Pharmacy to compound injectable sterile drug products. The Sterile Compounding Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

JURISDICTION

5. This Second Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 118, subdivision (b), provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

7. Section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board, whose default
2 has been entered or whose case has been heard by the board and found guilty, by any of the
3 following methods:

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

6 (3) Suspending his or her right to practice for a period not exceeding one year.

7 (4) Revoking his or her license.

8 (5) Taking any other action in relation to disciplining him or her as the board in its
9 discretion may deem proper."

10 8. Section 4169 states, in pertinent part:

11 "(a) A person or entity may not do any of the following:

12 ...

13 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
14 should have known were misbranded, as defined in Section 111335 of the Health and Safety
15 Code."

16 9. Section 4342 states, in pertinent part:

17 "(a) The board may institute any action or actions as may be provided by law and that, in
18 its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do
19 not conform to the standard and tests as to quality and strength, provided in the latest edition of
20 the United States Pharmacopoeia or the National Formulary, or that violate any provision of the
21 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
22 104 of the Health and Safety Code)."

23 REGULATORY PROVISIONS

24 10. California Code of Regulations, title 16, section 1735.3 states:

25 "(a) For each compounded drug product, the pharmacy records shall include:

26 ...

27 (6) The manufacturer, expiration date and lot number of each component. If the
28 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted,

1 Exempt from the requirements in this paragraph are sterile products compounded on a one-time
2 basis for administration within seventy-two (72) hours and stored in accordance with standards
3 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National
4 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,
5 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

6 11. California Code of Regulations, title 16, section 1751.7, subdivision (c) states in
7 pertinent part that batch-produced sterile injectable drug products compounded from one or more
8 non-sterile ingredients shall be subject to documented end product testing for sterility and
9 pyrogens and shall be quarantined until the end product testing confirms sterility and acceptable
10 levels of pyrogens.

11 12. California Code of Regulations, title 16, section 1735.2 subdivisions (c) and (h)
12 state as follows:

13 "..."

14 "(c) Pursuant to Business and Professions Code section 4052 (a)(1), a "reasonable
15 quantity" of compounded drug product may be furnished to a prescriber for office use upon
16 prescriber order, where "reasonable quantity" is that amount of compounded drug product that:

17 (1) is sufficient for administration or application to patients in the prescriber's
18 office, or for distribution of not more than a 72-hour supply to the prescriber's patients, as
19 estimated by the prescriber; and

20 (2) is reasonable considering the intended use of the compounded medication and
21 the nature of the prescriber's practice; and

22 (3) for any individual prescriber and for all prescribers taken as a whole, is an
23 amount which the pharmacy is capable of compounding in compliance with
24 pharmaceutical standards for integrity, potency, quality and strength of the compounded
25 drug product."

26 "..."

27 "(h) Every compounded drug product shall be given an expiration date representing the
28 date beyond which, in the professional judgment of the pharmacist performing or supervising the

1 compounding, it should not be used. This "beyond use date" of the compounded drug product
2 shall not exceed 180 days from preparation or the shortest expiration date of any component in
3 the compounded drug product, unless a longer date is supported by stability studies of finished
4 drugs or compounded drug products using the same components and packaging. Shorter dating
5 than set forth in this subsection may be used if it is deemed appropriate in the professional
6 judgment of the responsible pharmacist."

7 "...."

8 COST RECOVERY

9 13. Section 125.3 states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 DRUG DEFINITIONS

14 14. Tri-Mix, is a sterile injectable compound comprised of three different ingredients:
15 alprostadil, phentolamine, and papaverine. All three of the products are dangerous drugs pursuant
16 to Business and Professions Code Section 4022 (c).
17

18 15. Nandrolone Decanoate 200mg/ml injection, brand name "Androlone", is used to
19 treat anemia in patients with kidney failure, is classified as a Schedule III controlled substance
20 under the Anabolic Steroids Control Act of 1990 as designated by Health and Safety Code section
21 11056 and is categorized as a dangerous drug pursuant to Business and Professions Code section
22 4022.

23 16. Hydroxyprogesterone Caproate, brand name "Makena", is a synthetic, steroidal
24 progestin that is used in pregnancy to prevent preterm labor in women, and is categorized as a
25 dangerous drug pursuant to Business and Professions Code section 4022.
26

27 ///

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FACTUAL BACKGROUND

I. May 15, 2012 Inspection

17. On or about May 15, 2012, the Board conducted an annual licensed sterile compounding inspection (LSC Inspection) at Respondent RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404.

18. During the LSC Inspection, the Board inspector reviewed RX Unlimited's end-product test results to determine sterility of compounded products.

19. Respondent Braddy stated that RX Unlimited did not conduct in-house testing of the finalized products for sterility, but rather sent the products out to Eagle Analytical Services (Eagle) for testing.

20. The Board inspector learned that for some of the compounded product results, sterility and potency testing were completed but not pyrogen testing¹.

21. RX Unlimited Pharmacy Technician B.G.² informed the Board inspector that Respondents conducted in house pyrogen testing. Respondents failed to produce documentation of the pyrogen testing results upon request.

22. The Board inspector subsequently learned that RX Unlimited possessed pyrogen test kits, but never used any of them.

23. While reviewing Eagle's testing reports, the Board inspector also observed that the potency results of multiple compounds were outside of the normal range.

24. Respondent Braddy stated that the products outside of normal range were not dispensed to consumers.

¹ A pyrogen is a protein that can induce a fever in a patient by triggering a series of immune reactions. The guaranteed absence of pyrogens is a critical safety precaution for all drugs administered parenterally, since these contaminants can pose a life-threatening risk of shock to the patient. Pyrogen testing defines a process used by drug manufacturers to determine if bacterial toxins are present in vaccines and drugs that might cause fever when used on humans. It determines if microbes or their metabolites are present in intravenous solutions during the manufacturing process.

² For potential witnesses and/or patients, initials are used in lieu of names in order to protect the privacy rights of these individuals.

1 25. During the inspection, Respondents were unable to produce compounding
2 worksheets for all products identified by the Board inspector, however, Respondent Braddy
3 admitted that RX Unlimited did not test each and every batch of sterile products to make sure
4 they were sterile.

5 26. On or about September 14, 2012, the Board conducted a follow up inspection and
6 to obtain additional pharmacy records.

7 27. The inspector requested the dispensing reports of compounds identified during the
8 May 15, 2012 inspection which were found to have potency results outside acceptable potency
9 ranges for the compound.

10 28. A review of the compounding logs, laboratory testing results, and dispensing
11 reports for Tri-Mix (alprostadil-10mcg/papaverine-30mg/phentolamine-0.5mg) revealed
12 approximately 44 compounded prescriptions which were prepared as batch products from a non-
13 sterile source and found to be outside of expected potency ranges were dispensed to consumers.

14 29. The Board inspector also selected a sample of compounding logs for end-product
15 testing and requested the prescription dispensing history for those specific lots.

16 30. The records revealed that approximately 105 sterile injectable compounded
17 prescriptions prepared as batch products from a non-sterile source were dispensed to consumers
18 without first conducting end product sterility and pyrogen testing.

19 31. A sample of compounding worksheet records also revealed that Respondent failed
20 to document the manufacturer of each ingredient used to prepare approximately 15 compounds
21 for Tri-Mix, Nandrolone, Progesterone, Testosterone, Tri-Mix XL and Quad-Mix.

22 32. A written notice of non-compliance was given to Respondents Braddy and RX
23 Unlimited at the end of the inspection.

24 **II. February 13, 2013 Inspection**

25 33. On or about February 13, 2013, the Board conducted an inspection at Respondent
26 RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404 after a complaint was
27 made by T.Corp. alleging that Respondents continued to compound large quantities of
28

1 hydroxyprogesterone caproate (HPC) injection outside the scope of traditional pharmacy
2 compounding.

3 34. Respondent Clifton Braddy was not present during the inspection. Pharmacist
4 N.P. was present and provided the documents requested during the inspection. At the conclusion
5 of the inspection, Respondent Braddy was notified that he was required to supplement the
6 documents collected during the inspection within 14 days. After review of all documents
7 provided at the inspection site, as well as those provided thereafter by Respondents, the following
8 findings were made.

9 35. Respondents' sterile compounding worksheets were reviewed and revealed that the
10 Respondents were compounding nandrolone deconoate 200mg/ml injection with a beyond the use
11 date of 180 days despite the Master Formula's estimated 90 days beyond the use date.
12 Respondents were unable to provide stability studies that supported the 180 days beyond the use
13 date for the nandrolone deconoate 200mg/ml.

14 36. Respondents' compounding logs revealed that they were compounding and
15 dispensing HPC injections outside of the scope of traditional pharmacy compounding practices in
16 that the HPC injections were commercially available in the marketplace and there was no specific
17 need for said drug. The records revealed that a total of six (6) prescriptions were filled from
18 January 1, 2012 through February 13, 2013 as follows: RX No. 100897, dispensed June 19,
19 2012, RX No. 100898, dispensed June 19, 2012, RX No. 100907, dispensed June 21, 2012, RX
20 No. 100907, dispensed September 5, 2012, RX No. 101765, dispensed November 27, 2012, and
21 RX No. 101765, dispensed December 28, 2012.

22 FIRST CAUSE FOR DISCIPLINE

23 (Misbranded Drugs)

24 37. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
25 action under section 4169 subdivision (a)(3) in conjunction with section 4342 in that inspections
26 conducted on or about May 15, 2012, and September 13, 2012, revealed that Respondents
27 purchased, traded, sold or transferred dangerous drugs that Respondents knew or should have
28

1 reasonably known were misbranded, as defined in section 11135 of the Health and Safety Code.
2 Complainant incorporates by reference paragraphs 17 – 32, as if fully set forth herein.

3 SECOND CAUSE FOR DISCIPLINE

4 (Sterile Compounding – Quality Assurance)

5 38. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
6 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1751.7,
7 subdivision (c) in that an inspection conducted on September 14, 2012, revealed that Respondents
8 did not test for sterility and pyrogen for each sterile injectable batch product prepared from a non-
9 sterile source prior to dispensing the product. Complainant incorporates by reference paragraphs
10 17 – 32, as if fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Records of Compounding Drug Products)

13 39. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
14 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.3,
15 subdivision (a) (6) in that inspections conducted on or about May 15, 2012, and September 13,
16 2012, revealed that Respondents failed to identify the name of the manufacturer of each
17 ingredient of a compounded drug prior to dispensing the product. Complainant incorporates by
18 reference paragraphs 26 – 32, as if fully set forth herein.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Compounding Limitations and Requirements; Self Assessment)

21 40. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
22 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 Section 1735.2,
23 subdivision (h) in that the inspection on February 13, 2013, and the records thereafter provided,
24 revealed that Respondents had compounding worksheets for nandrolone deconoate 200/mg/ml
25 that showed a beyond the use date of 180 days despite a master formula estimated 90 days beyond
26 the use date. In addition, Respondents were unable to provide stability studies that supported the
27 beyond the use date of 180 days. Complainant incorporates by reference paragraphs 33 - 35, as if
28 fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Compounding Limitations)

3 41. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
4 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.2,
5 subdivision (c) in that the inspection on February 13, 2013, and the records thereafter provided,
6 revealed that Respondents were compounding and dispensing HPC injections in a form that is
7 essentially a copy of a product which is commercially available in the market place. Complainant
8 incorporates by reference paragraphs 33, 34 & 36, as if fully set forth herein.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

12 1. Revoking or suspending Pharmacist License Number RPH 45546 issued to Clifton
13 Eugene Braddy;

14 2. Revoking or suspending Sterile Compounding Permit Number LSC 99642 issued
15 to RX Unlimited LLC;

16 3. Revoking or suspending Pharmacy Permit Number PHY 50302, issued to RX
17 Unlimited LLC, dba RX Unlimited Pharmacy;

18 4. Ordering RX Unlimited LLC and Clifton Eugene Braddy, Pharmacist-in-Charge,
19 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3; and

21 5. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/3/15

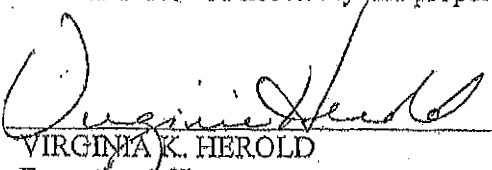

24 VIRGINIA K. HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

EXHIBIT “C”

**Decision and Order in Third Amended Accusation/Petition to Revoke Case No. 6319
(Respondent Goldstein)**

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED, LLC DBA RX UNLIMITED PHARMACY, BRIAN PAUL
SOHAN GOLDSTEIN, PAUL RAY GOLDSTEIN
Pharmacy Permit No. PHY 50302 and
Sterile Compounding Permit No. LSC 99642;**

CLIFTON EUGENE BRADDY, Pharmacist License No. RPH 45546;

**BRIAN PAUL SOHAN GOLDSTEIN, Pharmacy Technician Registration
No. TCH 101671;**

STEPHANIE SOPHIA AVERBUKH, Pharmacist License No. RPH 67571;

Respondents

Agency Case No. 6319

OAH No. 2019070633

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on July 29, 2020.

It is so ORDERED on June 29, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", written in a cursive style.

By

Greg Lippe
Board President

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General
KEVIN J. RIGLEY
Deputy Attorney General
State Bar No. 131800
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6301
Facsimile: (916) 731-2126
Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Third Amended
Accusation/Petition to Revoke Probation Against:

**RX UNLIMITED, LLC DBA RX UNLIMITED
PHARMACY, BRIAN PAUL SOHAN
GOLDSTEIN, PAUL RAY GOLDSTEIN**
16673 Roscoe Blvd.
North Hills, CA 91343

Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642,

CLIFTON EUGENE BRADDY
18333 Hatteras St., #110
Tarzana, CA 91356

Pharmacist License No. RPH 45546,

BRIAN PAUL SOHAN GOLDSTEIN
8641 Wilshire Blvd, Suite 120
Beverly Hills, CA 90211

Pharmacy Technician Registration No. TCH
101671,

and

STEPHANIE SOPHIA AVERBUKH
13443 Debby Street
Valley Glen, CA 91401

Pharmacist License No. RPH 67571

Respondents.

Case No. 6319

OAH No. 2019070633

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT BRIAN PAUL SOHAN
GOLDSTEIN, LICENSE NO. TCH
101671**

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 **PARTIES**

4 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
5 (Board). She brought this action solely in her official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
7 General.

8 2. Respondent Brian Paul Sohan Goldstein (Respondent) is represented in this
9 proceeding by attorney Tony J. Park, whose address is: 49 Discovery, Suite 240, Irvine, CA
10 92618-6713.

11 3. On or about May 4, 2010, the Board of Pharmacy issued Pharmacy Technician
12 Registration Number TCH 101671 to Brian Paul Sohan Goldstein (Respondent Goldstein). The
13 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
14 brought herein and will expire on September 30, 2021, unless renewed.

15 **JURISDICTION**

16 4. Third Amended Accusation and Petition to Revoke Probation No. 6319 was filed
17 before the Board, and is currently pending against Respondent. The Third Amended Accusation
18 and Petition to Revoke Probation and all other statutorily required documents were properly
19 served on Respondent on February 11, 2020. Respondent timely filed his Notice of Defense
20 contesting the Third Amended Accusation and Petition to Revoke Probation.

21 5. A copy of Third Amended Accusation and Petition to Revoke Probation No. 6319 is
22 attached as exhibit A and incorporated herein by reference.

23 **ADVISEMENT AND WAIVERS**

24 6. Respondent has carefully read, fully discussed with counsel, and understands the
25 charges and allegations in Third Amended Accusation and Petition to Revoke Probation No.
26 6319. Respondent has also carefully read, fully discussed with counsel, and understands the
27 effects of this Stipulated Settlement and Disciplinary Order.

28 ///

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Third Amended Accusation and Petition to Revoke Probation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Third Amended Accusation and Petition to Revoke Probation No. 6319.

10. Respondent agrees that his Pharmacy Technician Registration is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 101671 issued to Brian Paul Sohan Goldstein is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy- two (72) hours of such occurrence:

an arrest or issuance of a criminal complaint for violation of any provision of the

Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal

criminal proceeding to any criminal complaint, information or indictment

a conviction of any crime

the filing of a disciplinary pleading, issuance of a citation, or initiation of another

administrative action filed by any state or federal agency which involves

respondent's license or which is related to the practice of pharmacy or the

manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

1 Failure to timely report such occurrence shall be considered a violation of probation.

2 **2. Report to the Board**

3 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
4 designee. The report shall be made either in person or in writing, as directed. Among other
5 requirements, Respondent shall state in each report under penalty of perjury whether there has
6 been compliance with all the terms and conditions of probation.

7 Failure to submit timely reports in a form as directed shall be considered a violation of
8 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
9 total period of probation. Moreover, if the final probation report is not made as directed,
10 probation shall be automatically extended until such time as the final report is made and accepted
11 by the board.

12 **3. Interview with the Board**

13 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
14 with the board or its designee, at such intervals and locations as are determined by the board or its
15 designee. Failure to appear for any scheduled interview without prior notification to board staff,
16 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
17 the period of probation, shall be considered a violation of probation.

18 **4. Cooperate with Board Staff**

19 Respondent shall timely cooperate with the Board's inspection program and with the
20 Board's monitoring and investigation of Respondent's compliance with the terms and conditions
21 of his probation, including but not limited to: timely responses to requests for information by
22 board staff; timely compliance with directives from board staff regarding requirements of any
23 term or condition of probation; and timely completion of documentation pertaining to a term or
24 condition of probation. Failure to timely cooperate shall be considered a violation of probation.

25 **5. Reporting of Employment and Notice to Employers**

26 During the period of probation, Respondent shall notify all present and prospective
27 employers of the decision in case number 6319 and the terms, conditions and restrictions imposed
28 on Respondent by the decision, as follows:

1 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
2 undertaking any new employment, Respondent shall report to the Board in writing the name,
3 physical address, and mailing address of each of Respondent's employer(s), and the name(s) and
4 telephone number(s) of all of Respondent's direct supervisor(s), as well as any pharmacist(s)-in-
5 charge, designated representative(s)-in-charge, responsible manager, or other compliance
6 supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for
7 leaving the prior employment. Respondent shall sign and return to the Board a written consent
8 authorizing the Board or its designee to communicate with all of respondent's employer(s) and
9 supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the Board
10 or its designee, concerning Respondent's work status, performance, and monitoring. Failure to
11 comply with the requirements or deadlines of this condition shall be considered a violation of
12 probation.

13 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
14 Respondent undertaking any new employment, Respondent shall cause (a) Entity direct
15 supervisor, (b) Entity pharmacist-in-charge, designated representative-in-charge, responsible
16 manager, or other compliance supervisor, and (c) the owner or owner representative of Entity
17 employer, to report to the board in writing acknowledging that the listed individual(s) has/have
18 read the decision in case number 6319, and terms and conditions imposed thereby. If one person
19 serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It
20 shall be the Respondent's responsibility to ensure that these acknowledgment(s) are timely
21 submitted to the Board. In the event of a change in the person(s) serving the role(s) described in
22 (a), (b), or (c) during the term of probation, Respondent shall cause the person(s) taking over the
23 role(s) to report to the Board in writing within fifteen (15) days of the change acknowledging that
24 he or she has read the decision in case number 6319, and the terms and conditions imposed
25 thereby.

26 If Respondent works for or is employed by or through an employment service, Respondent
27 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board
28 of the decision in case number 6319, and the terms and conditions imposed thereby in advance of

Respondent commencing work at such licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment by or through an employment service, Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the board in writing acknowledging that he or she has read the decision in case number, and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

Failure to timely notify present or prospective employer(s) or failure to cause the identified person(s) with that/those employer(s) to submit timely written acknowledgments to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision includes any full-time, part-time, temporary, relief, or employment/management service position as a pharmacy technician, or any position for which a pharmacy technician is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

6. Certification Prior to Resuming Work

Respondent shall have one year from the effective date of this decision to achieve certification pursuant to Business and Professions Code section 4202, subdivision (a)(4). If Respondent fails to obtain certification within one year after the effective date of this decision, he will be suspended, and shall not work as a pharmacy technician, until he has been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), has submitted proof of certification to the Board, and has been notified by the Board or its designee that he may begin work. Failure to achieve certification within one year of the effective date shall be considered a violation of probation.

During suspension, Respondent shall not enter any pharmacy area or any portion of any other board licensed premises of a wholesaler, third-party logistics provider, veterinary food animal drug retailer or any other distributor of drugs which is licensed by the Board, or any

///

1 manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled
2 substances are maintained.

3 During suspension, Respondent shall not do any act involving drug selection, selection of
4 stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or
5 assist any licensee of the Board. Respondent shall not have access to or control the ordering,
6 distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or
7 controlled substances.

8 During suspension, Respondent shall not engage in any activity that requires licensure
9 as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of
10 pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or
11 dangerous devices, or controlled substances.

12 Failure to comply with any such suspension shall be considered a violation of probation.

13 **7. Practice Requirement – Extension of Probation**

14 Except during periods of suspension, Respondent shall, at all times while on probation, be
15 employed as a pharmacy technician in California for a minimum of 80 hours per calendar month.
16 Any month during which this minimum is not met shall extend the period of probation by one
17 month. During any such period of insufficient employment, respondent must nonetheless comply
18 with all terms and conditions of probation, unless Respondent receives a waiver in writing from
19 the Board or its designee.

20 If Respondent does not practice as a pharmacy technician in California for the minimum
21 number of hours in any calendar month, for any reason (including vacation), Respondent shall
22 notify the Board in writing within ten (10) days of the conclusion of that calendar month. This
23 notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s)
24 for the interruption or reduction in practice; and the anticipated date(s) on which Respondent will
25 resume practice at the required level. Respondent shall further notify the Board in writing within
26 ten (10) days following the next calendar month during which Respondent practices as a
27 pharmacy technician in California for the minimum of hours. Any failure to timely provide such
28 notification(s) shall be considered a violation of probation.

1 It is a violation of probation for Respondent's probation to be extended pursuant to the
2 provisions of this condition for a total period, counting consecutive and non-consecutive months,
3 exceeding thirty-six (36) months. The Board or its designee may post a notice of the extended
4 probation period on its website.

5 **8. No New Ownership or Management of Licensed Premises**

6 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
7 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
8 business, firm, partnership, or corporation licensed by the board. If Respondent currently owns or
9 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
10 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
11 or hereinafter licensed by the board, Respondent may continue to serve in such capacity or hold
12 that interest, but only to the extent of that position or interest as of the effective date of this
13 decision. Violation of this restriction shall be considered a violation of probation.

14 **9. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

15 Respondent shall further notify the Board in writing within ten (10) days of any change in
16 name, residence address, mailing address, e-mail address or phone number.

17 Failure to timely notify the board of any change in employer, name, address, or phone
18 number shall be considered a violation of probation.

19 **10. Reimbursement of Board Costs**

20 As a condition precedent to successful completion of probation, respondent shall pay to the
21 Board its costs of investigation and prosecution in the amount of \$5,000.00. Respondent shall
22 make said payments as follows:

23 Respondent shall be permitted to pay these costs in a payment plan approved by the Board
24 or its designee, so long as full payment is completed no later than one (1) year prior to the end
25 date of probation.

26 There shall be no deviation from this schedule absent prior written approval by the Board or
27 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
28 probation.

1 **11. Probation Monitoring Costs**

2 Respondent shall pay any costs associated with probation monitoring as determined by the
3 Board each and every year of probation. Such costs shall be payable to the board on a schedule
4 as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed
5 shall be considered a violation of probation.

6 **12. Status of License**

7 Respondent shall, at all times while on probation, maintain an active, current Pharmacy
8 Technician Registration with the Board, including any period during which suspension or
9 probation is tolled. Failure to maintain an active, current Pharmacy Technician Registration shall
10 be considered a violation of probation.

11 If Respondent's Pharmacy Technician Registration expires or is cancelled by operation of
12 law or otherwise at any time during the period of probation, including any extensions thereof due
13 to tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all
14 terms and conditions of this probation not previously satisfied.

15 **13. License Surrender While on Probation/Suspension**

16 Following the effective date of this decision, should Respondent cease practice due to
17 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
18 Respondent may relinquish his license, including any indicia of licensure issued by the Board,
19 along with a request to surrender the license. The Board or its designee shall have the discretion
20 whether to accept the surrender or take any other action it deems appropriate and reasonable.
21 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
22 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
23 become a part of the Respondent's license history with the Board.

24 Upon acceptance of the surrender, Respondent shall relinquish his pocket and/or wall
25 license, including any indicia of licensure not previously provided to the Board within ten (10)
26 days of notification by the Board that the surrender is accepted if not already provided.
27 Respondent may not reapply for any license from the Board for three (3) years from the effective
28 date of the surrender. Respondent shall meet all requirements applicable to the license sought as

1 of the date the application for that license is submitted to the Board, including any outstanding
2 costs.

3 **14. Violation of Probation**

4 If Respondent has not complied with any term or condition of probation, the Board shall
5 have continuing jurisdiction over Respondent, and the Board shall provide notice to Respondent
6 that probation shall automatically be extended, until all terms and conditions have been satisfied
7 or the Board has taken other action as deemed appropriate to treat the failure to comply as a
8 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
9 Board or its designee may post a notice of the extended probation period on its website.

10 If Respondent violates probation in any respect, the Board, after giving Respondent notice
11 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
12 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
13 probation, or the preparation of an accusation or petition to revoke probation is requested from
14 the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of
15 probation shall be automatically extended until the petition to revoke probation or accusation is
16 heard and decided.

17 **15. Completion of Probation**

18 Upon written notice by the Board or its designee indicating successful completion of
19 probation, Respondent's license will be fully restored.

20
21 **ACCEPTANCE**

22 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
23 discussed it with my attorney, Tony J. Park. I understand the stipulation and the effect it will
24 have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and

25 ///

26 ///

27 ///

28 ///

Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

BRIAN PAUL SOHAN GOLDSTEIN
Respondent

I have read and fully discussed with Respondent Brian Paul Sohan Goldstein the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

TONY J. PARK
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____

Respectfully submitted,


XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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1 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Board of Pharmacy.

3
4 DATED: 4-24-20


BRIAN PAUL SOHAN GOLDSTEIN
Respondent

7 I have read and fully discussed with Respondent Brian Paul Sohan Goldstein the terms and
8 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
9 I approve its form and content.

10
11 DATED: 04/24/2020


TONY J. PARK
Attorney for Respondent


13
14 **ENDORSEMENT**

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
16 submitted for consideration by the Board of Pharmacy.

17 DATED: 4/27/20

Respectfully submitted,

18 XAVIER BECERRA
19 Attorney General of California
20 LINDA L. SUN
Supervising Deputy Attorney General

21 
22 KEVIN J. RIGLEY
23 Deputy Attorney General
24 Attorneys for Complainant

25
26 LA2017507520
27 63237265.docx
28

Exhibit A

Third Amended Accusation and Petition to Revoke No. 6319

1 XAVIER BECERRA
Attorney General of California
2 LINDA SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6301
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Third Amended
12 Accusation and Petition to Revoke Probation
Against:

Case No. 6319

13 **RX UNLIMITED, LLC DBA RX**
14 **UNLIMITED PHARMACY,**
15 **BRIAN PAUL SOHAN GOLDSTEIN –**
MEMBER

THIRD AMENDED ACCUSATION AND
PETITION TO REVOKE PROBATION

16 16673 Roscoe Blvd.
North Hills, CA 91343

17 Pharmacy Permit No. PHY 50302
18 Sterile Compounding Permit No. LSC 99642,

19 **and**

20 **CLIFTON EUGENE BRADDY**

21 18333 Hatteras St. # 110
Tarzana, CA 91356

22 Registered Pharmacist License No. RPH 45546

23 **and**

24 **BRIAN PAUL SOHAN GOLDSTEIN**

25 8641 Wilshire Blvd, Suite 120
Beverly Hills, CA 90211

26 Pharmacy Technician Registration No. TCH
101671

27 *(Continued on next page)*
28

1 **Rx Unlimited Pharmacy**

2 **Sterile Compounding Permit**

3 4. On or about September 28, 2010, the Board issued Sterile Compounding Permit
4 Number LSC 99642 to Respondent Rx Unlimited Pharmacy. The Sterile Compounding Permit
5 was in full force and effect at all times relevant to the charges brought herein and will expire on
6 June 1, 2020, unless renewed.

7 **Clifton Eugene Braddy**

8 **Pharmacist-in-Charge (June 28, 2010 – November 9, 2015)**

9 5. On or about August 14, 1992, the Board of Pharmacy issued Registered Pharmacist
10 License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Registered
11 Pharmacist License, which was in full force and effect at all times relevant to the charges brought
12 herein, expired on April 30, 2018, and was subsequently cancelled on May 31, 2018 after
13 Respondent Braddy voluntarily surrendered his license pursuant to the terms and conditions of his
14 probation.

15 6. In a disciplinary action entitled "In the Matter of the Accusation Against Rx
16 Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567,
17 the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which
18 Respondent Braddy's Pharmacist License was revoked. However, the revocation was stayed, and
19 Respondent Braddy's Pharmacist License was placed on probation for five (5) years, with certain
20 terms and conditions. A copy of that Decision and Order is attached as Exhibit B and is
21 incorporated herein by reference.

22 **Brian Paul Sohan Goldstein**

23 **Original Pharmacy Technician**

24 7. On or about May 4, 2010, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 101671 to Brian Paul Sohan Goldstein (Respondent Goldstein). The
26 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
27 brought herein and will expire on September 30, 2021, unless renewed.

28 ///

1 **Stephanie Sophia Averbukh**

2 **Pharmacist-in-Charge (November 9, 2015 - January 19, 2018)**

3 8. On or about August 16, 2012, the Board of Pharmacy issued Registered Pharmacist
4 License Number RPH 67571 to Stephanie Sophia Averbukh (Respondent Averbukh). The
5 Registered Pharmacist License was in full force and effect at all times relevant to the charges
6 brought herein and will expire on January 31, 2022, unless renewed.

7 **JURISDICTION AND STATUTORY PROVISIONS**

8 9. This Third Amended Accusation and Petition to Revoke Probation is brought before
9 the Board under the authority of the following laws. All section references are to the Business
10 and Professions Code (Code) unless otherwise indicated.

11 10. Section 4300.1 of the Code states:

12 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
13 operation of law or by order or decision of the board or a court of law, the placement of a license
14 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
15 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
16 proceeding against, the licensee or to render a decision suspending or revoking the license."

17 11. Section 4300 of the Code states, in pertinent part:

18 "(a) Every license issued may be suspended or revoked.

19 "(b) The board shall discipline the holder of any license issued by the board, whose default
20 has been entered or whose case has been heard by the board and found guilty, by any of the
21 following methods:

22 "(1) Suspending judgment.

23 "(2) Placing him or her upon probation.

24 "(3) Suspending his or her right to practice for a period not exceeding one year.

25 "(4) Revoking his or her license.

26 "(5) Taking any other action in relation to disciplining him or her as the board in its
27 discretion may deem proper."

28

1 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
2 certificate of licensure for any violation of the terms and conditions of probation. Upon
3 satisfactory completion of probation, the board shall convert the probationary certificate to a
4 regular certificate, free of conditions."

5 12. Section 4022 of the Code states:

6 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
7 humans or animals, and includes the following:

8 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
9 prescription," "Rx only," or words of similar import.

10 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
11 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with
12 the designation of the practitioner licensed to use or order use of the device.

13 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
14 prescription or furnished pursuant to Section 4006."

15 13. Section 4059.5 states, in pertinent part:

16

17 "(e) A dangerous drug or dangerous device shall not be transferred, sold, or delivered to a
18 person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer
19 does so in compliance with the laws of this state and of the United States and of the state or
20 country to which the dangerous drugs or dangerous devices are to be transferred, sold, or
21 delivered. Compliance with the laws of this state and the United States and of the state or country
22 to which the dangerous drugs or dangerous devices are to be delivered shall include, but not
23 limited to, determining that the recipient of the dangerous drugs or dangerous devices is
24 authorized by law to receive the dangerous drugs or dangerous devices."

25 14. Section 4301 states, in pertinent part:

26 "The board shall take action against any holder of a license who is guilty of unprofessional
27 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
28 not limited to, any of the following:

1

2 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
3 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
4 whether the act is a felony or misdemeanor or not.”

5 “(g) Knowingly making or signing any certificate or other document that falsely represents
6 the existence or nonexistence of a state of facts.”

7

8 “(j) The violation of any of the statutes of this state, of any other state, or of the United
9 States regulating controlled substances and dangerous drugs.”

10

11 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
12 violation of or conspiring to violate any provision or term of this chapter or of the applicable
13 federal and state laws and regulations governing pharmacy, including regulations established by
14 the board or by any other state or federal regulatory agency.

15 15. Health and Safety Code section 11162.1 states, in pertinent part:

16 “(a) The prescription forms for controlled substances shall be printed with the following
17 features:

18 “(1) A latent, repetitive “void” pattern shall be printed across the entire front of the
19 prescription blank; if a prescription is scanned or photocopied, the word “void” shall appear in a
20 pattern across the entire front of the prescription.

21 “(2) A watermark shall be printed on the backside of the prescription blank; the watermark
22 shall consist of the words “California Security Prescription.”

23 “(3) A chemical void protection that prevents alteration by chemical washing.

24 “(4) A feature printed in thermochromic ink.

25 “(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

26 “(6) A description of the security features included on each prescription form.

27 “(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may
28 indicate the quantity by checking the applicable box where the following quantities shall appear:

1 “1–24

2 “25–49

3 “50–74

4 “75–100

5 “101–150

6 “151 and over.

7 “(B) In conjunction with the quantity boxes, a space shall be provided to designate the units
8 referenced in the quantity boxes when the drug is not in tablet or capsule form.

9 “(8) Prescription blanks shall contain a statement printed on the bottom of the prescription
10 blank that the “Prescription is void if the number of drugs prescribed is not noted.”

11 “(9) The preprinted name, category of licensure, license number, federal controlled
12 substance registration number, and address of the prescribing practitioner.

13 “(10) Check boxes shall be printed on the form so that the prescriber may indicate the
14 number of refills ordered.

15 “(11) The date of origin of the prescription.

16 “(12) A check box indicating the prescriber’s order not to substitute.

17 “(13) An identifying number assigned to the approved security printer by the Department of
18 Justice.”

19 16. Section 4307 of the Code states, in pertinent part:

20 “(a) Any person who has been denied a license or whose license has been revoked or is
21 under suspension, or who has failed to renew his or her license while it was under suspension, or
22 who has been a manager, administrator, owner member, officer, director, associate, partner, or
23 any other person with management or control of any partnership, corporation, firm, or association
24 whose application for a license has been denied or revoked, is under suspension or has been
25 placed on probation, and while acting as the manger, administrator, owner, member, officer,
26 director, associate, partner, or any other person with management or control had knowledge or
27 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
28 placed on probation, shall be prohibited from serving as a manger, administrator, owner, member,

officer, director, associate, partner, or any other person with management or control of a licensee as follows:

“(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

“(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.”

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1717.3 states, in pertinent part:

“(a) No person shall dispense a controlled substance pursuant to a preprinted multiple check-off prescription blank.”

18. California Code of Regulations, title 16, section 1761 states, in pertinent part:

“(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.”

19. California Code of Regulations, title 16, section 1773, states, in part:

"(a) Unless otherwise directed by the Board in its sole discretion, any pharmacist who is serving a period of probation shall comply with the following conditions:

"(1) Obey all laws and regulations substantially related to the practice of Pharmacy;

"(2) Report to the Board or its designee quarterly either in person or in writing as directed; the report shall include the name and address of the probationer's employer. If the final probation report is not made as directed, the period of probation shall be extended until such time as the final report is made;"

. . . .

20. California Code of Regulations, title 16, section 1774, subdivision (a)(2) states, in pertinent part:

“(a) (2) Unless otherwise directed by the Board, any pharmacy permit which is on probation to the Board shall be subject to the following conditions: The permit, through its

1 officer, partners or owners, shall report to the Board or its designees quarterly, either in person or
2 in writing as directed; if the final probation report is not made as directed, the period of probation
3 shall be extended until such time as the final report is made.”

4 **COST RECOVERY**

5 21. Section 125.3 provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
9 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
10 included in a stipulated settlement.

11 12 **THIRD AMENDED ACCUSATION**

13 14 **BOARD INVESTIGATION REPORT DATED AUGUST 9, 2017**

15 22. A Board investigation conducted in regard to Respondent Rx Unlimited Pharmacy
16 revealed that between December 26, 2013 and July 29, 2016, Rx Unlimited Pharmacy located at
17 16673 Roscoe Boulevard, North Hills, CA 91343, unlawfully shipped/mailed approximately 453
18 prescriptions involving dangerous drugs and/or dangerous devices into 27 states other than
19 California where they were not licensed to do so. Further, many of these dangerous drugs were
20 sterile compounds, which carry a higher risk of infectious contamination. These violations of law
21 were documented in a Board Investigation Report dated August 9, 2017.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct)**

24 23. Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein are subject to
25 disciplinary action under section 4301, subdivision (f) in that Rx Unlimited, Braddy and
26 Goldstein committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. The
27 circumstances are as follows:

28 ///

24. Between December 26, 2013 and July 29, 2016, Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein unlawfully shipped/mailed approximately 453 prescriptions involving dangerous drugs and/or dangerous devices into 27 states other than California where they were not licensed to do so. Further, many of these dangerous drugs were sterile compounds, which carry a higher risk of infectious contamination.

SECOND CAUSE FOR DISCIPLINE

(Compliance with Laws of All Involved Jurisdictions)

25. Respondents Rx Unlimited, Braddy, and Goldstein are subject to disciplinary action under section 4059.5, subdivision (e) in conjunction with section 4301, subdivision (j), in that Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein failed to comply with the laws of this state and federal laws by unlawfully shipping/mailing prescriptions involving dangerous drugs or dangerous devices into 27 states other than California where they were not licensed to do so, as set forth in paragraphs 22-24 above.

BOARD INVESTIGATION REPORT OF MARCH 6, 2019

26. A follow up inspection conducted in regard to Respondent Rx Unlimited Pharmacy by Board Inspectors was initiated on or about October 16, 2018, wherein additional violations of law were uncovered. The underlying facts and related violations documented by a Board Inspector in a Board Inspection Report dated March 6, 2019 is summarized as follows.

27. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were not issued on a prescription form for controlled substances as required in the State of California.

28. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were written on prescription paper with preprinted multiple check-off boxes for controlled substances.

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1 29. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while
2 employed at Rx Unlimited Pharmacy, unlawfully processed and dispensed 41 prescriptions, 18 of
3 which were controlled substances, which were erroneous for the following reasons:

- 4 • Controlled substances were not written on required California Prescription Pads.
- 5 • Controlled substances were written on preprinted scripts with check-off boxes.
- 6 • Rx 125537, 125535 & 125534 were dated by the prescriber as being written on
7 10/5/2015, then 10/28/2015, then 11/10/2015; Rx# 125731 was dated by the
8 prescriber as being written on 10/5/2015, then 10/28/2015, then 11/10/2015. Rx
9 125546, 125547 and 12551 were dated by the prescriber as being written on
10 10/28/2015, then 11/10/2015. Rx 125514, 125555 and 125556 were dated by the
11 prescriber as being written on 10/28/2015, then 11/10/2015. Rx 125811, 125812
12 and 125813 were dated by the prescriber as being written on 10/28/2015, then
13 11/10/2015. Rx 125762 and 125763 were dated by the prescriber as being written
14 on 10/28/2015, then 11/10/2015. Rx 125743, 125744 and 125745 were dated by
15 the prescriber as being written on 10/28/2015, then 11/10/2015.
- 16 • There is no evidence (fax header or telephone notations) as to how these
17 prescriptions above were received at Respondent Rx Unlimited, as they were
18 written on a "Boulevard Pharmacy" Form.

19 30. Respondent Averbukh, while employed as pharmacist in charge at Respondent Rx
20 Unlimited Pharmacy, signed under penalty of perjury, a Community Pharmacy and Hospital
21 Outpatient Pharmacy Compounding Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In
22 each self-assessment, Respondent Averbukh failed to list pharmacist B.F. as required, despite the
23 fact that pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited
24 Pharmacy from December 2015 through April 2018, as confirmed by statements obtained by
25 Board Inspectors from current and previous employees of Respondent Rx Unlimited Pharmacy.

26 31. Respondent Goldstein, as owner of Respondent Rx Unlimited Pharmacy, also signed
27 under penalty of perjury, a Community Pharmacy and Hospital Outpatient Pharmacy
28 Compounding Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In each self-assessment,

Respondent Goldstein failed to list pharmacist B.F. as required, despite the fact that pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited Pharmacy from December 2015 through April 2018, as confirmed by statements obtained by Board Inspectors from current and previous employees of Respondent Rx Unlimited Pharmacy.

THIRD CAUSE FOR DISCIPLINE

(Prescription Forms for Controlled Substances Requirements)

32. Respondents Rx Unlimited Pharmacy and Averbukh are subject to disciplinary action under Health and Safety Code section 11162.1, subdivision (a) (1-13), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were not issued on a prescription form for controlled substances as required in the State of California, as set forth in paragraphs 26-31 above.

FOURTH CAUSE FOR DISCIPLINE

(Preprinted Multiple Checkoff Prescription Blanks)

33. Respondents Rx Unlimited Pharmacy and Averbukh are subject to disciplinary action under California Code of Regulations, title 16, section 1717.3, subdivision (a), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were written on prescription paper with preprinted multiple check-off boxes for controlled substances, as set forth in paragraphs 26-31 above.

FIFTH CAUSE FOR DISCIPLINE

(Erroneous or Uncertain Prescriptions)

34. Respondent Averbukh is subject to disciplinary action under Code section 4301, subdivision (a), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Rx Unlimited Pharmacy, unlawfully processed and dispensed 41 erroneous prescriptions, 18 of which were controlled substances, as set forth in paragraphs 26-31 above.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Knowingly Signing Document That Falsely Represents Facts)**

3 35. Respondents Averbukh and Goldstein are subject to disciplinary action under Code
4 section 4301, subdivision (g), in that Respondents Averbukh and Goldstein each signed under
5 penalty of perjury, a Community Pharmacy and Hospital Outpatient Pharmacy Compounding
6 Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In each self-assessment, Respondents
7 Averbukh and Goldstein both failed to list pharmacist B.F. as required, despite the fact that
8 pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited Pharmacy from
9 December 2015 through April 2018, as confirmed by statements obtained by Board Inspectors
10 from current and previous employees of Respondent Rx Unlimited Pharmacy, as set forth in
11 paragraphs 26-31 above.

12
13 **PETITION TO REVOKE PROBATION**

14
15 **FIRST CAUSE TO REVOKE PROBATION**

16 **(Failure to Obey All Laws)**

17 36. At all times after the effective date of the Order and Decision in Case No. 4567, In
18 the Matter of the Accusation Against Rx Unlimited, LLC; Rx Unlimited Pharmacy, Probation
19 Term and Condition Number 1 of Case No. 4567 stated in pertinent part:

20 **“1. Obey All Laws**

21 **“Respondent’s owner shall obey all state and federal laws and regulations. . . “**

22 37. Respondent Rx Unlimited Pharmacy’s probation is subject to revocation pursuant to
23 California Code of Regulations, title 16, sections 1773 and 1774, subdivision (a)(1), because it
24 failed to comply with Probation Condition 1, referenced above, in that it violated California
25 pharmacy laws, statutes and regulations, as set forth above in paragraphs 22-35 above, which are
26 incorporated by this reference as though set forth fully herein.

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1 41. Respondent Braddy's probation is subject to revocation pursuant to California Code
2 of Regulations, title 16, sections 1773 and 1774, subdivision (a)(1), because he failed to comply
3 with Probation Condition 1, referenced above, in that he violated California pharmacy laws,
4 statutes and regulations, as set forth above in paragraphs 22-35 above, which are incorporated by
5 this reference as though set forth fully herein.

6 **DISCIPLINE CONSIDERATIONS**

7 42. To determine the degree of discipline, if any, to be imposed on Respondent Rx
8 Unlimited Pharmacy, in a disciplinary action entitled "In the Matter of the Accusation Against Rx
9 Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567,
10 the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which
11 Respondent Rx Unlimited Pharmacy's Pharmacy Permit was revoked. However, the revocation
12 was stayed, and Respondent Rx Unlimited Pharmacy's Pharmacy Permit was placed on probation
13 for five (5) years, with certain terms and conditions.

14 43. To determine the degree of discipline, if any, to be imposed on Respondent Braddy,
15 Complainant alleges that in a disciplinary action entitled "In the Matter of the Accusation Against
16 Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No.
17 4567, the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which
18 Respondent Braddy's Pharmacist License was revoked. However, the revocation was stayed, and
19 Respondent Braddy's Pharmacist License was placed on probation for five (5) years, with certain
20 terms and conditions.

21 **OTHER MATTERS**

22 44. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
23 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan
24 Goldstein, member, Paul Ray Goldstein, member, Rx Unlimited, LLC dba Rx Unlimited
25 Pharmacy, Brian Paul Sohan Goldstein, member, and Paul Ray Goldstein, member, shall be
26 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
27 or partner of a licensee for five years if Pharmacy Permit Number PHY 50302 is placed on
28 probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is revoked.

1 45. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
2 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Clifton Eugene
3 Braddy was serving as a manager, administrator, owner, member, officer, director, associate,
4 partner, or in any other position with management or control, and had knowledge of or
5 knowingly participated in any conduct for which the licensee was disciplined, Clifton Eugene
6 Braddy shall be prohibited from serving as a manager, administrator, owner, member, officer,
7 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY
8 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is
9 revoked, or until surrendered Pharmacist License Number RPH 45546 is reinstated if it is
10 revoked.

11 46. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
12 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Stephanie Sophia
13 Averbukh was serving as a manager, administrator, owner, member, officer, director, associate,
14 partner, or in any other position with management or control, and had knowledge of or
15 knowingly participated in any conduct for which the licensee was disciplined, Stephanie Sophia
16 Averbukh shall be prohibited from serving as a manager, administrator, owner, member, officer,
17 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY
18 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is
19 revoked.

20 47. Pursuant to Code section 4307, if discipline is imposed on surrendered Pharmacist
21 License Number RPH 45546 issued to Clifton Eugene Braddy, Clifton Eugene Braddy shall be
22 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
23 or partner of a licensee until surrendered Pharmacist License Number RPH 45546 is ever
24 reinstated if it is revoked.

25 48. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
26 Number RPH 67571 issued to Stephanie Sophia Averbukh, Stephanie Sophia Averbukh shall be
27 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
28

1 or partner of a licensee for five years if Pharmacist License Number RPH 67571 is placed on
2 probation or until Pharmacist License Number RPH 67571 is reinstated if it is revoked.

3 **PRAYER**

4 *WHEREFORE*, Complainant requests that a hearing be held on the matters alleged in this
5 Third Amended Accusation and Petition to Revoke Probation, and that following the hearing, the
6 Board of Pharmacy issue a decision:

7 1. Revoking or suspending Pharmacy Permit No. PHY 50302, issued to Rx Unlimited,
8 LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein,
9 member;

10 2. Revoking or suspending Sterile Compounding Permit No. LSC 99642, issued to Rx
11 Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray
12 Goldstein, member

13 3. Revoking surrendered Registered Pharmacist License No. RPH 45546, issued to
14 Clifton Eugene Braddy;

15 4. Revoking or suspending Pharmacy Technician Registration No. TCH 101671, issued
16 to Brian Paul Sohan Goldstein;

17 5. Revoking or suspending Registered Pharmacist License No. RPH 67571, issued to
18 Stephanie Sophia Averbukh;

19 6. Prohibiting Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan
20 Goldstein, member, Paul Ray Goldstein, member, from serving as a manager, administrator,
21 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
22 Permit Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302
23 is reinstated if Pharmacy Permit Number PHY 50302 issued to Rx Unlimited, LLC dba Rx
24 Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member;

25 7. Prohibiting Clifton Eugene Braddy from serving as a manager, administrator, owner,
26 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
27 Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is
28 reinstated if Pharmacy Permit Number PHY 50302 issued Rx Unlimited, LLC dba Rx Unlimited

Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member is revoked, or until surrendered Pharmacist License Number RPH 45546 is ever reinstated if it is revoked.

8. Prohibiting Stephanie Sophia Averbukh from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if Pharmacy Permit Number PHY 50302 issued Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member is revoked;

9. Prohibiting Clifton Eugene Braddy from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee until surrendered Pharmacist License Number RPH 45546 is reinstated if surrendered Pharmacist License Number RPH 45546 issued to Clifton Eugene Braddy is revoked;

10. Prohibiting Stephanie Sophia Averbukh from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 67571 is placed on probation or until Pharmacist License Number RPH 45546 is reinstated if Pharmacist License Number RPH 67571 issued to Stephanie Sophia Averbukh is revoked;

11. Ordering Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Clifton Eugene Braddy, Brian Paul Sohan Goldstein, and Stephanie Sophia Averbukh to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

12. Taking such other and further action as deemed necessary and proper.

DATED: February 4, 2020



ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

EXHIBIT "A"

Decision and Order in Accusation Case No. 4567 (Respondent Rx Unlimited)

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED LLC
RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.
North Hills, CA 91343

Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642

and

CLIFTON EUGENE BRADY
18333 Hatteras St. #110
Tarzana, CA 91356

Pharmacist License No. RPH 45546

Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO RX
UNLIMITED, LLC DBA RX
UNLIMITED PHARMACY ONLY**

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 13, 2017.

It is so ORDERED on February 10, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 **RX UNLIMITED LLC**
RX UNLIMITED PHARMACY
12 16673 Roscoe Blvd.,
North Hills, CA 91343
13
14 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642
15 and
16 **CLIFTON EUGENE BRADY**
18333 Hatteras St. #110
17 Tarzana, CA 91356
18 Pharmacist License No. RPH 45546
19
20 Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO RX
UNLIMITED, LLC DBA RX
UNLIMITED PHARMACY ONLY**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
28 General.

1 represented by counsel at its own expense; the right to confront and cross-examine the witnesses
2 against them; the right to present evidence and to testify on its own behalf; the right to the
3 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
4 the right to reconsideration and court review of an adverse decision; and all other rights accorded
5 by the California Administrative Procedure Act and other applicable laws.

6 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
7 every right set forth above.

8 CULPABILITY

9 10. Respondents understand and agree that the charges and allegations in Accusation No.
10 4567, if proven at a hearing, constitute cause for imposing discipline upon Respondents'
11 pharmacy and sterile compounding licenses.

12 11. For the purpose of resolving the Accusation without the expense and uncertainty of
13 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
14 basis for the charges in the Accusation, and that Respondents hereby give up their right to contest
15 those charges.

16 12. Respondents agree that their pharmacy and sterile compounding licenses are subject
17 to discipline and agree to be bound by the Board's probationary terms as set forth in the
18 Disciplinary Order below.

19 CONTINGENCY

20 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
21 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
22 communicate directly with the Board regarding this stipulation and settlement, without notice to
23 or participation by Respondents or its counsel. By signing the stipulation, Respondents
24 understand and agree that they may not withdraw its agreement or seek to rescind the stipulation
25 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
26 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
27 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
28 and the Board shall not be disqualified from further action by having considered this matter.

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
3 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

4 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
9 writing executed by an authorized representative of each of the parties.

10 16. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Board may, without further notice or formal proceeding, issue and enter the following
12 Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Original Pharmacy Permit Number PHY 50302 and Sterile
15 Compounding Permit No. LSC 99642 issued to Respondent RX Unlimited, LLC dba RX
16 Unlimited Pharmacy ("Respondents") are revoked. However, the revocation is stayed and
17 Respondents are placed on probation for five (5) years on the following terms and conditions.

18 **1. Obey All Laws**

19 Respondents' owner shall obey all state and federal laws and regulations.

20 Respondents' owner shall report any of the following occurrences to the board, in writing,
21 within seventy-two (72) hours of such occurrence:

- 22 • an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
- 25 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
- 27 • a conviction of any crime
- 28 • discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's original pharmacy permit and sterile compounding
2 license or which is related to the practice of pharmacy or the manufacturing,
3 obtaining, handling or distributing, billing, or charging for any drug, device or
4 controlled substance.

5 Failure to timely report any such occurrence shall be considered a violation of probation.

6 **2. Report to the Board**

7 Respondents' owner shall report to the board quarterly, on a schedule as directed by the
8 board or its designee. The report shall be made either in person or in writing, as directed. Among
9 other requirements, respondents' owner shall state in each report under penalty of perjury whether
10 there has been compliance with all the terms and conditions of probation. Failure to submit
11 timely reports in a form as directed shall be considered a violation of probation. Any period(s) of
12 delinquency in submission of reports as directed may be added to the total period of probation.
13 Moreover, if the final probation report is not made as directed, probation shall be automatically
14 extended until such time as the final report is made and accepted by the board.

15 **3. Interview with the Board**

16 Upon receipt of reasonable prior notice, respondents' owner shall appear in person for
17 interviews with the board or its designee, at such intervals and locations as are determined by the
18 board or its designee. Failure to appear for any scheduled interview without prior notification to
19 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its
20 designee during the period of probation, shall be considered a violation of probation.

21 **4. Cooperate with Board Staff**

22 Respondents' owner shall cooperate with the board's inspection program and with the
23 board's monitoring and investigation of respondents' compliance with the terms and conditions of
24 their probation. Failure to cooperate shall be considered a violation of probation.

25 **5. Reimbursement of Board Costs**

26 As a condition precedent to successful completion of probation, respondents' owner shall
27 pay to the board its costs of investigation and prosecution in the amount of \$11,584.00.

28 Respondents shall make said payments on a payment plan approved by the Board. There shall be

no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondents' owner shall not relieve respondents of their responsibility to reimburse the board its costs of investigation and prosecution.

6. Probation Monitoring Costs

Respondents' owner shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

7. Status of License

Respondents' owner shall, at all times while on probation, maintain current licensure with the board. If respondents' owner submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondents' shall remain on probation as determined by the board. Failure to maintain current licensure shall be considered a violation of probation.

If respondents' owner's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof or otherwise, upon renewal or reapplication respondents' owner's license shall be subject to all terms and conditions of this probation not previously satisfied.

8. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondents' owner discontinue business, respondents' owner may tender the premises license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondents will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondents' owner shall relinquish the premises wall and renewal license to the board within ten (10) days of notification by the board that the

1 surrender is accepted. Respondents' owner shall further submit a completed Discontinuance of
2 Business form according to board guidelines and shall notify the board of the records inventory
3 transfer.

4 Respondents' owner shall also, by the effective date of this decision, arrange for the
5 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
6 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
7 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
8 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
9 days of its provision to the pharmacy's ongoing patients, Respondents' owner shall provide a
10 copy of the written notice to the board. For the purposes of this provision, "ongoing patients"
11 means those patients for whom the pharmacy has on file a prescription with one or more refills
12 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
13 days.

14 Respondents' owner may not apply for any new licensure from the board for three (3) years
15 from the effective date of the surrender. Respondents' owner shall meet all requirements
16 applicable to the license sought as of the date the application for that license is submitted to the
17 board.

18 Respondents' owner further stipulates that he or she shall reimburse the board for its costs
19 of investigation and prosecution prior to the acceptance of the surrender.

20 9. Notice to Employees

21 Respondents' owner shall, upon or before the effective date of this decision, ensure that all
22 employees involved in permit operations are made aware of all the terms and conditions of
23 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
24 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
25 remain posted throughout the probation period. Respondents' owner shall ensure that any
26 employees hired or used after the effective date of this decision are made aware of the terms and
27 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
28 respondents' owner shall submit written notification to the board, within fifteen (15) days of the

1 effective date of this decision, that this term has been satisfied. Failure to submit such
2 notification to the board shall be considered a violation of probation.

3 "Employees" as used in this provision includes all full-time, part-time,
4 volunteer, temporary and relief employees and independent contractors employed or
5 hired at any time during probation.

6 **10. Owners and Officers: Knowledge of the Law**

7 Respondents shall provide, within thirty (30) days after the effective date of this decision,
8 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
9 or more of the interest in respondents or respondents' stock, and any officer, stating under penalty
10 of perjury that said individuals have read and are familiar with state and federal laws and
11 regulations governing the practice of pharmacy. The failure to timely provide said statements
12 under penalty of perjury shall be considered a violation of probation.

13 **11. Posted Notice of Probation**

14 Respondents' owner shall prominently post a probation notice provided by the board in a
15 place conspicuous and readable to the public. The probation notice shall remain posted during
16 the entire period of probation.

17 Respondents' owner shall not, directly or indirectly, engage in any conduct or make any
18 statement which is intended to mislead or is likely to have the effect of misleading any patient,
19 customer, member of the public, or other person(s) as to the nature of and reason for the probation
20 of the licensed entity.

21 Failure to post such notice shall be considered a violation of probation.

22 **12. Violation of Probation**

23 If a respondents' owner has not complied with any term or condition of probation, the board
24 shall have continuing jurisdiction over respondents' licenses, and probation shall be automatically
25 extended until all terms and conditions have been satisfied or the board has taken other action as
26 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
27 probation, and to impose the penalty that was stayed.

28 ///

1 If respondents' owner violates probation in any respect, the board, after giving respondents'
2 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
3 order that was stayed. Notice and opportunity to be heard are not required for those provisions
4 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of
5 the license. If a petition to revoke probation or an accusation is filed against respondents during
6 probation, the board shall have continuing jurisdiction and the period of probation shall be
7 automatically extended until the petition to revoke probation or accusation is heard and decided,
8 and all charges and allegations in Accusation No. 4567 shall be deemed true and correct.

9 **13. Completion of Probation**

10 Upon written notice by the board or its designee indicating successful completion of
11 probation, respondents' licenses will be fully restored.

12 **14. Suspension**

13 Original Pharmacy Permit Number PHY 50302 and Sterile Compounding Permit No. LSC
14 99642 issued to Respondents are suspended, beginning with the effective date of this decision,
15 until the time in which forty (40) hours of in-person remedial education in sterile compounding
16 are completed by Brian Goldstein, Eugene Braddy, Naomi Parvizi and any other licensed
17 employees of the Respondents. The in-person training may be completed prior to the execution
18 of this stipulation, and Complainant shall render full credit for all satisfactory completion of this
19 requirement that is successfully fulfilled before the effective date of its decision.

20 Respondents shall cease all pharmacy operations during the period of suspension. Failure
21 to comply with this suspension shall be considered a violation of probation.

22 **15. Accreditation by PCAP and NABP**

23 During the period of probation Respondents shall obtain semi-annual accreditation by the
24 Pharmacy Compounding Accreditation Board (PCAB) and annual accreditation by the National
25 Association of Boards of Pharmacy (NABP).

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DATED: 12-12-16

DATED: 12/16/2016

Dated: 12/19/16

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO RX UNLIMITED, LLC DBA RX UNLIMITED
PHARMACY ONLY (4567)

Exhibit A

Second Amended Accusation No. 4567

1 KAMALA D. HARRIS
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2 ARMANDO ZAMBRANO
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4567

12 **RX UNLIMITED LLC**
13 **RX UNLIMITED PHARMACY**
6815 Noble Ave. Ste. 107
14 Van Nuys, CA 91405

SECOND AMENDED ACCUSATION

15 Pharmacy Permit No. PHY 50302
16 Sterile Compounding Permit No. LSC 99642

17 and

18 **Clifton Eugene Braddy**
18333 Hatteras St. #110
19 Tarzana, CA 91356

20 Pharmacist License No. RPH 45546

21 Respondents.
22
23

24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in
27 her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

2. On or about August 14, 1992, the Board issued Pharmacist License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on April 30, 2016, unless renewed.

3. On or about June 28, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50302 to RX Unlimited LLC, dba RX Unlimited Pharmacy with the address of record of 6815 Noble Ave., Ste. 107, Van Nuys, California 91405 (Respondent RX Unlimited). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

4. On or about September 28, 2010, the Board issued Sterile Compounding Permit Number LSC 99642 to RX Unlimited LLC, dba RX Unlimited Pharmacy to compound injectable sterile drug products. The Sterile Compounding Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

JURISDICTION

5. This Second Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 118, subdivision (b), provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

7. Section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board, whose default
2 has been entered or whose case has been heard by the board and found guilty, by any of the
3 following methods:

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

6 (3) Suspending his or her right to practice for a period not exceeding one year.

7 (4) Revoking his or her license.

8 (5) Taking any other action in relation to disciplining him or her as the board in its
9 discretion may deem proper."

10 8. Section 4169 states, in pertinent part:

11 "(a) A person or entity may not do any of the following:

12 ...

13 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
14 should have known were misbranded, as defined in Section 111335 of the Health and Safety
15 Code."

16 9. Section 4342 states, in pertinent part:

17 "(a) The board may institute any action or actions as may be provided by law and that, in
18 its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do
19 not conform to the standard and tests as to quality and strength, provided in the latest edition of
20 the United States Pharmacopoeia or the National Formulary, or that violate any provision of the
21 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
22 104 of the Health and Safety Code)."

23 REGULATORY PROVISIONS

24 10. California Code of Regulations, title 16, section 1735.3 states:

25 "(a) For each compounded drug product, the pharmacy records shall include:

26 ...

27 (6) The manufacturer, expiration date and lot number of each component. If the
28 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted,

1 Exempt from the requirements in this paragraph are sterile products compounded on a one-time
2 basis for administration within seventy-two (72) hours and stored in accordance with standards
3 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National
4 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,
5 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

6 11. California Code of Regulations, title 16, section 1751.7, subdivision (c) states in
7 pertinent part that batch-produced sterile injectable drug products compounded from one or more
8 non-sterile ingredients shall be subject to documented end product testing for sterility and
9 pyrogens and shall be quarantined until the end product testing confirms sterility and acceptable
10 levels of pyrogens.

11 12. California Code of Regulations, title 16, section 1735.2 subdivisions (c) and (h)
12 state as follows:

13 "..."

14 "(c) Pursuant to Business and Professions Code section 4052 (a)(1), a "reasonable
15 quantity" of compounded drug product may be furnished to a prescriber for office use upon
16 prescriber order, where "reasonable quantity" is that amount of compounded drug product that:

17 (1) is sufficient for administration or application to patients in the prescriber's
18 office, or for distribution of not more than a 72-hour supply to the prescriber's patients, as
19 estimated by the prescriber; and

20 (2) is reasonable considering the intended use of the compounded medication and
21 the nature of the prescriber's practice; and

22 (3) for any individual prescriber and for all prescribers taken as a whole, is an
23 amount which the pharmacy is capable of compounding in compliance with
24 pharmaceutical standards for integrity, potency, quality and strength of the compounded
25 drug product."

26 "..."

27 "(h) Every compounded drug product shall be given an expiration date representing the
28 date beyond which, in the professional judgment of the pharmacist performing or supervising the

1 compounding, it should not be used. This "beyond use date" of the compounded drug product
2 shall not exceed 180 days from preparation or the shortest expiration date of any component in
3 the compounded drug product, unless a longer date is supported by stability studies of finished
4 drugs or compounded drug products using the same components and packaging. Shorter dating
5 than set forth in this subsection may be used if it is deemed appropriate in the professional
6 judgment of the responsible pharmacist."

7 "...."

8 COST RECOVERY

9 13. Section 125.3 states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 DRUG DEFINITIONS

14 14. Tri-Mix, is a sterile injectable compound comprised of three different ingredients:
15 alprostadil, phentolamine, and papaverine. All three of the products are dangerous drugs pursuant
16 to Business and Professions Code Section 4022 (c).
17

18 15. Nandrolone Decanoate 200mg/ml injection, brand name "Androlone", is used to
19 treat anemia in patients with kidney failure, is classified as a Schedule III controlled substance
20 under the Anabolic Steroids Control Act of 1990 as designated by Health and Safety Code section
21 11056 and is categorized as a dangerous drug pursuant to Business and Professions Code section
22 4022.

23 16. Hydroxyprogesterone Caproate, brand name "Makena", is a synthetic, steroidal
24 progestin that is used in pregnancy to prevent preterm labor in women, and is categorized as a
25 dangerous drug pursuant to Business and Professions Code section 4022.
26

27 ////

28 ////

1 FACTUAL BACKGROUND

2 I. May 15, 2012 Inspection

3 17. On or about May 15, 2012, the Board conducted an annual licensed sterile
4 compounding inspection (LSC Inspection) at Respondent RX Unlimited, located at 6815 Noble
5 Ave. #107, Van Nuys, CA 91404.

6 18. During the LSC Inspection, the Board inspector reviewed RX Unlimited's end-
7 product test results to determine sterility of compounded products.

8 19. Respondent Braddy stated that RX Unlimited did not conduct in-house testing of
9 the finalized products for sterility, but rather sent the products out to Eagle Analytical Services
10 (Eagle) for testing.

11 20. The Board inspector learned that for some of the compounded product results,
12 sterility and potency testing were completed but not pyrogen testing¹.

13 21. RX Unlimited Pharmacy Technician B.G.² informed the Board inspector that
14 Respondents conducted in house pyrogen testing. Respondents failed to produce documentation
15 of the pyrogen testing results upon request.

16 22. The Board inspector subsequently learned that RX Unlimited possessed pyrogen
17 test kits, but never used any of them.

18 23. While reviewing Eagle's testing reports, the Board inspector also observed that the
19 potency results of multiple compounds were outside of the normal range.

20 24. Respondent Braddy stated that the products outside of normal range were not
21 dispensed to consumers.

22
23
24 ¹ A pyrogen is a protein that can induce a fever in a patient by triggering a series of immune reactions. The
25 guaranteed absence of pyrogens is a critical safety precaution for all drugs administered parenterally, since these
26 contaminants can pose a life-threatening risk of shock to the patient. Pyrogen testing defines a process used by drug
27 manufacturers to determine if bacterial toxins are present in vaccines and drugs that might cause fever when used on
humans. It determines if microbes or their metabolites are present in intravenous solutions during the manufacturing
process.

28 ² For potential witnesses and/or patients, initials are used in lieu of names in order to protect the privacy rights of
these individuals.

1 25. During the inspection, Respondents were unable to produce compounding
2 worksheets for all products identified by the Board inspector, however, Respondent Braddy
3 admitted that RX Unlimited did not test each and every batch of sterile products to make sure
4 they were sterile.

5 26. On or about September 14, 2012, the Board conducted a follow up inspection and
6 to obtain additional pharmacy records.

7 27. The inspector requested the dispensing reports of compounds identified during the
8 May 15, 2012 inspection which were found to have potency results outside acceptable potency
9 ranges for the compound.

10 28. A review of the compounding logs, laboratory testing results, and dispensing
11 reports for Tri-Mix (alprostadil-10mcg/papaverine-30mg/phentolamine-0.5mg) revealed
12 approximately 44 compounded prescriptions which were prepared as batch products from a non-
13 sterile source and found to be outside of expected potency ranges were dispensed to consumers.

14 29. The Board inspector also selected a sample of compounding logs for end-product
15 testing and requested the prescription dispensing history for those specific lots.

16 30. The records revealed that approximately 105 sterile injectable compounded
17 prescriptions prepared as batch products from a non-sterile source were dispensed to consumers
18 without first conducting end product sterility and pyrogen testing.

19 31. A sample of compounding worksheet records also revealed that Respondent failed
20 to document the manufacturer of each ingredient used to prepare approximately 15 compounds
21 for Tri-Mix, Nandrolone, Progesterone, Testosterone, Tri-Mix XL and Quad-Mix.

22 32. A written notice of non-compliance was given to Respondents Braddy and RX
23 Unlimited at the end of the inspection.

24 **II. February 13, 2013 Inspection**

25 33. On or about February 13, 2013, the Board conducted an inspection at Respondent
26 RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404 after a complaint was
27 made by T.Corp. alleging that Respondents continued to compound large quantities of
28

1 hydroxyprogesterone caproate (HPC) injection outside the scope of traditional pharmacy
2 compounding.

3 34. Respondent Clifton Braddy was not present during the inspection. Pharmacist
4 N.P. was present and provided the documents requested during the inspection. At the conclusion
5 of the inspection, Respondent Braddy was notified that he was required to supplement the
6 documents collected during the inspection within 14 days. After review of all documents
7 provided at the inspection site, as well as those provided thereafter by Respondents, the following
8 findings were made.

9 35. Respondents' sterile compounding worksheets were reviewed and revealed that the
10 Respondents were compounding nandrolone deconoate 200mg/ml injection with a beyond the use
11 date of 180 days despite the Master Formula's estimated 90 days beyond the use date.
12 Respondents were unable to provide stability studies that supported the 180 days beyond the use
13 date for the nandrolone deconoate 200mg/ml.

14 36. Respondents' compounding logs revealed that they were compounding and
15 dispensing HPC injections outside of the scope of traditional pharmacy compounding practices in
16 that the HPC injections were commercially available in the marketplace and there was no specific
17 need for said drug. The records revealed that a total of six (6) prescriptions were filled from
18 January 1, 2012 through February 13, 2013 as follows: RX No. 100897, dispensed June 19,
19 2012, RX No. 100898, dispensed June 19, 2012, RX No. 100907, dispensed June 21, 2012, RX
20 No. 100907, dispensed September 5, 2012, RX No. 101765, dispensed November 27, 2012, and
21 RX No. 101765, dispensed December 28, 2012.

22 FIRST CAUSE FOR DISCIPLINE

23 (Misbranded Drugs)

24 37. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
25 action under section 4169 subdivision (a)(3) in conjunction with section 4342 in that inspections
26 conducted on or about May 15, 2012, and September 13, 2012, revealed that Respondents
27 purchased, traded, sold or transferred dangerous drugs that Respondents knew or should have
28

1 reasonably known were misbranded, as defined in section 11135 of the Health and Safety Code.
2 Complainant incorporates by reference paragraphs 17 – 32, as if fully set forth herein.

3 SECOND CAUSE FOR DISCIPLINE

4 (Sterile Compounding – Quality Assurance)

5 38. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
6 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1751.7,
7 subdivision (c) in that an inspection conducted on September 14, 2012, revealed that Respondents
8 did not test for sterility and pyrogen for each sterile injectable batch product prepared from a non-
9 sterile source prior to dispensing the product. Complainant incorporates by reference paragraphs
10 17 – 32, as if fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Records of Compounding Drug Products)

13 39. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
14 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.3,
15 subdivision (a) (6) in that inspections conducted on or about May 15, 2012, and September 13,
16 2012, revealed that Respondents failed to identify the name of the manufacturer of each
17 ingredient of a compounded drug prior to dispensing the product. Complainant incorporates by
18 reference paragraphs 26 – 32, as if fully set forth herein.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Compounding Limitations and Requirements; Self Assessment)

21 40. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
22 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 Section 1735.2,
23 subdivision (h) in that the inspection on February 13, 2013, and the records thereafter provided,
24 revealed that Respondents had compounding worksheets for nandrolone deconoate 200/mg/ml
25 that showed a beyond the use date of 180 days despite a master formula estimated 90 days beyond
26 the use date. In addition, Respondents were unable to provide stability studies that supported the
27 beyond the use date of 180 days. Complainant incorporates by reference paragraphs 33 - 35, as if
28 fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Compounding Limitations)

3 41. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
4 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.2,
5 subdivision (c) in that the inspection on February 13, 2013, and the records thereafter provided,
6 revealed that Respondents were compounding and dispensing HPC injections in a form that is
7 essentially a copy of a product which is commercially available in the market place. Complainant
8 incorporates by reference paragraphs 33, 34 & 36, as if fully set forth herein.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

12 1. Revoking or suspending Pharmacist License Number RPH 45546 issued to Clifton
13 Eugene Braddy;

14 2. Revoking or suspending Sterile Compounding Permit Number LSC 99642 issued
15 to RX Unlimited LLC;

16 3. Revoking or suspending Pharmacy Permit Number PHY 50302, issued to RX
17 Unlimited LLC, dba RX Unlimited Pharmacy;

18 4. Ordering RX Unlimited LLC and Clifton Eugene Braddy, Pharmacist-in-Charge,
19 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3; and

21 5. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/3/15

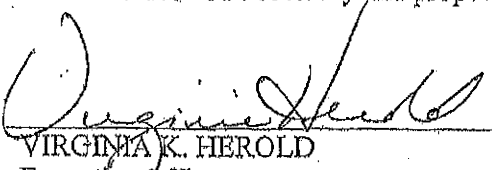
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25 VIRGINIA K. HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

EXHIBIT "B"

Decision and Order in Accusation Case No. 4567 (Respondent Braddy)

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED LLC
RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.
North Hills, CA 91343

Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642

and

CLIFTON EUGENE BRADDY
18333 Hatteras St. #110
Tarzana, CA 91356

Pharmacist License No. RPH 45546

Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
CLIFTON EUGENE BRADDY ONLY**

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 13, 2017.

It is so ORDERED on February 10, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Second Accusation
11 Against:
12 **RX UNLIMITED LLC**
13 **RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.,
North Hills, CA 91343
14 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642
15
16 and
17 **CLIFTON EUGENE BRADDY**
18 18333 Hatteras St. #110
Tarzana, CA 91356
19 Pharmacist License No. RPH 45546
20 Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
CLIFTON EUGENE BRADDY ONLY**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 PARTIES

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
28 General.

1 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
2 every right set forth above.

3 CULPABILITY

4 9. Respondent understands and agrees that the charges and allegations in Accusation
5 No. 4567, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
6 License No. RPH 45546.

7 10. For the purpose of resolving the Accusation without the expense and uncertainty of
8 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
9 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
10 those charges.

11 11. Respondent agrees that his Pharmacist License is subject to discipline and he to be
12 bound by the Board's probationary terms as set forth in the Disciplinary Order below.

13 CONTINGENCY

14 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
15 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
16 communicate directly with the Board regarding this stipulation and settlement, without notice to
17 or participation by Respondent or his counsel. By signing the stipulation, Respondent
18 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
19 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
20 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
21 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
22 and the Board shall not be disqualified from further action by having considered this matter.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
25 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. RPH 45546 issued to Respondent
9 Clifton Eugene Braddy (Respondent) is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for five (5) years on the following terms and conditions.

11 **1. Obey All Laws**

12 Respondent shall obey all state and federal laws and regulations.

13 Respondent shall report any of the following occurrences to the board, in writing, within
14 seventy-two (72) hours of such occurrence:

- 15 • an arrest or issuance of a criminal complaint for violation of any provision of the
16 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
17 substances laws
- 18 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
19 criminal complaint, information or indictment
- 20 • a conviction of any crime
- 21 • discipline, citation, or other administrative action filed by any state or federal agency
22 which involves respondent's pharmacist license or which is related to the practice of
23 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
24 for any drug, device or controlled substance.

25 Failure to timely report such occurrence shall be considered a violation of probation.

26 **2. Report to the Board**

27 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
28 designee. The report shall be made either in person or in writing, as directed. Among other

1 requirements, respondent shall state in each report under penalty of perjury whether there has
2 been compliance with all the terms and conditions of probation. Failure to submit timely reports
3 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
4 in submission of reports as directed may be added to the total period of probation. Moreover, if
5 the final probation report is not made as directed, probation shall be automatically extended until
6 such time as the final report is made and accepted by the board.

7 **3. Interview with the Board**

8 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
9 with the board or its designee, at such intervals and locations as are determined by the board or its
10 designee. Failure to appear for any scheduled interview without prior notification to board staff,
11 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
12 the period of probation, shall be considered a violation of probation.

13 **4. Cooperate with Board Staff**

14 Respondent shall cooperate with the board's inspection program and with the board's
15 monitoring and investigation of respondent's compliance with the terms and conditions of his
16 probation. Failure to cooperate shall be considered a violation of probation.

17 **5. Continuing Education**

18 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
19 pharmacist as directed by the board or its designee.

20 **6. Notice to Employers**

21 During the period of probation, respondent shall notify all present and prospective
22 employers of the decision in case number 4567 and the terms, conditions and restrictions imposed
23 on respondent by the decision, as follows:

24 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
25 respondent undertaking any new employment, respondent shall cause his direct supervisor,
26 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
27 tenure of employment) and owner to report to the board in writing acknowledging that the listed
28 individual(s) has/have read the decision in case number 4567, and terms and conditions imposed

1 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
2 submit timely acknowledgment(s) to the board.

3 If respondent works for or is employed by or through a pharmacy employment service,
4 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
5 licensed by the board of the terms and conditions of the decision in case number 4567 in advance
6 of the respondent commencing work at each licensed entity. A record of this notification must be
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of respondent undertaking any new employment by or through a pharmacy employment
10 service, respondent shall cause his direct supervisor with the pharmacy employment service to
11 report to the board in writing acknowledging that he has read the decision in case number 4567
12 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
13 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

14 Failure to timely notify present or prospective employer(s) or to cause that/those
15 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
16 probation.

17 "Employment" within the meaning of this provision shall include any full-time,
18 part-time, temporary, relief or pharmacy management service as a pharmacist or any
19 position for which a pharmacist license is a requirement or criterion for employment,
20 whether the respondent is an employee, independent contractor or volunteer.

21 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
22 **Designated Representative-in-Charge, or Serving as a Consultant**

23 During the period of probation, respondent shall not supervise any intern pharmacist, be the
24 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
25 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
26 unauthorized supervision responsibilities shall be considered a violation of probation.

27 ///

28 ///

1 **8. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, respondent shall pay to the
3 board its costs of investigation and prosecution in the amount of \$5,792.00. Respondent shall
4 make said payments on a payment plan approved by the Board.

5 There shall be no deviation from this schedule absent prior written approval by the board or
6 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
7 probation.

8 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
9 reimburse the board its costs of investigation and prosecution.

10 **9. Probation Monitoring Costs**

11 Respondent shall pay any costs associated with probation monitoring as determined by the
12 board each and every year of probation. Such costs shall be payable to the board on a schedule as
13 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
14 be considered a violation of probation.

15 **10. Status of License**

16 Respondent shall, at all times while on probation, maintain an active, current license with
17 the board, including any period during which suspension or probation is tolled. Failure to
18 maintain an active, current license shall be considered a violation of probation.

19 If respondent's license expires or is cancelled by operation of law or otherwise at any time
20 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
21 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
22 probation not previously satisfied.

23 **11. License Surrender While on Probation/Suspension**

24 Following the effective date of this decision, should respondent cease practice due to
25 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
26 respondent may tender his license to the board for surrender. The board or its designee shall have
27 the discretion whether to grant the request for surrender or take any other action it deems
28 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent

1 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
2 record of discipline and shall become a part of the respondent's license history with the board.

3 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
4 the board within ten (10) days of notification by the board that the surrender is accepted.

5 Respondent may not reapply for any license from the board for three (3) years from the effective
6 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
7 of the date the application for that license is submitted to the board, including any outstanding
8 costs.

9 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
10 **Employment**

11 Respondent shall notify the board in writing within ten (10) days of any change of
12 employment. Said notification shall include the reasons for leaving, the address of the new
13 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
14 shall further notify the board in writing within ten (10) days of a change in name, residence
15 address, mailing address, or phone number.

16 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
17 phone number(s) shall be considered a violation of probation.

18 **13. Tolling of Probation**

19 Except during periods of suspension, respondent shall, at all times while on probation, be
20 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
21 month during which this minimum is not met shall toll the period of probation, i.e., the period of
22 probation shall be extended by one month for each month during which this minimum is not met.
23 During any such period of tolling of probation, respondent must nonetheless comply with all
24 terms and conditions of probation.

25 Should respondent, regardless of residency, for any reason (including vacation) cease
26 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
27 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
28

1 must further notify the board in writing within ten (10) days of the resumption of practice. Any
2 failure to provide such notification(s) shall be considered a violation of probation.

3 It is a violation of probation for respondent's probation to remain tolled pursuant to the
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,
5 exceeding thirty-six (36) months.

6 "Cessation of practice" means any calendar month during which respondent is not
7 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code
8 section 4000 et seq. "Resumption of practice" means any calendar month during which
9 respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as defined by
10 Business and Professions Code section 4000 et seq."

11 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that
12 dispenses medication for a minimum of one year prior to the completion of probation. After the
13 first year of probation, the board or its designee may consider a modification of this requirement.
14 If respondent fails to comply with this requirement or a subsequent modification thereto, such
15 failure shall be considered a violation of probation.

16 14. Violation of Probation

17 If a respondent has not complied with any term or condition of probation, the board shall
18 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
19 all terms and conditions have been satisfied or the board has taken other action as deemed
20 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
21 to impose the penalty that was stayed.

22 If respondent violates probation in any respect, the board, after giving respondent notice
23 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
24 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
25 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
26 a petition to revoke probation or an accusation is filed against respondent during probation, the
27 board shall have continuing jurisdiction and the period of probation shall be automatically
28

1 extended until the petition to revoke probation or accusation is heard and decided, and charges
2 and allegations in Accusation No. 4567 shall be deemed true and correct.

3 **15. Completion of Probation**

4 Upon written notice by the board or its designee indicating successful completion of
5 probation, respondent's license will be fully restored.

6 **16. Suspension**

7 As part of probation, respondent is suspended from the practice of pharmacy up and until
8 forty (40) hours of in-person remedial education in sterile compounding is completed beginning
9 the effective date of this decision. The in-person training may be completed prior to the execution
10 of this stipulation, and Complainant shall render full credit for all satisfactory completion of this
11 requirement that is successfully fulfilled before the effective date of its decision.

12 During suspension, respondent shall not enter any pharmacy area or any portion of the
13 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
14 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
15 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
16 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
17 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
18 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
19 and devices or controlled substances.

20 Respondent shall not engage in any activity that requires the professional judgment of a
21 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
22 Respondent shall not perform the duties of a pharmacy technician or a designated representative
23 for any entity licensed by the board.

24 Subject to the above restrictions, respondent may continue to own or hold an interest in any
25 licensed premises in which he holds an interest at the time this decision becomes effective unless
26 otherwise specified in this order.

27 Failure to comply with this suspension shall be considered a violation of probation.
28

1 **17. Restricted Practice – No Sterile Compounding**

2 Respondent shall not prepare, oversee or participate in the preparation of sterile products at
3 any time in which he is licensed, regardless of whether he is on probation. Respondent
4 Pharmacist shall submit proof satisfactory to the board of compliance with this term of probation.
5 Failure to abide by this restriction or to timely submit proof to the board of compliance therewith
6 shall be considered a violation of probation.

7 **18. Remedial Education**

8 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
9 board or its designee, for prior approval, an appropriate program of remedial education related to
10 sterile compounding. The program of remedial education shall consist of at least forty (40) hours,
11 which shall be completed at respondent's own expense. All remedial education shall be in
12 addition to, and shall not be credited toward, continuing education (CE) courses used for license
13 renewal purposes.

14 Failure to timely submit or complete the approved remedial education shall be considered a
15 violation of probation. The period of probation will be automatically extended until such
16 remedial education is successfully completed and written proof, in a form acceptable to the board,
17 is provided to the board or its designee.

18 Following the completion of each course, the board or its designee may require the
19 respondent, at his own expense, to take an approved examination to test the respondent's
20 knowledge of the course. If the respondent does not achieve a passing score on the examination,
21 this failure shall be considered a violation of probation. Any such examination failure shall
22 require respondent to take another course approved by the board in the same subject area.

23 **19. No Ownership of Licensed Premises**

24 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
25 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
26 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
27 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
28 days following the effective date of this decision and shall immediately thereafter provide written

1 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
2 documentation thereof shall be considered a violation of probation.

3 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
4 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
5 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
6 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
7 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
8 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
9 that interest, but only to the extent of that position or interest as of the effective date of this
10 decision. Violation of this restriction shall be considered a violation of probation.

11 **20. Ethics Course**

12 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
13 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
14 Failure to initiate the course during the first year of probation, and complete it within the second
15 year of probation, is a violation of probation.

16 Respondent shall submit a certificate of completion to the board or its designee within five
17 days after completing the course.

18 **21. Supervised Practice**

19 During the period of probation, respondent shall practice only under the supervision of a
20 licensed pharmacist not on probation with the board. Upon and after the effective date of this
21 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
22 until a supervisor is approved by the board or its designee.

23 The supervision shall be, as required by the board or its designee, set as:

24 Daily Review - Supervisor's review of probationer's daily activities within 24 hours. "Daily
25 review" as this term is used herein shall not require that the supervising pharmacist be engaged in
26 physical supervision of respondent's activities in real time, but shall require that the supervising
27 pharmacist, by no later than close of business on each day following, review all transactions
28

1 performed by respondent and records associated with those transactions to ensure compliance
2 with state and federal statutes and regulations and with the requirements of this decision.

3 If respondent violates probation in any respect, the board or its designee shall have the power
4 to impose any of the following supervision restrictions:

5 Continuous - At least 75% of a work week

6 Substantial - At least 50% of a work week

7 Partial - At least 25% of a work week

8 Within thirty (30) days of the effective date of this decision, respondent shall have his
9 supervisor submit notification to the board in writing stating that the supervisor has read the
10 decision in case number 4567 and is familiar with the required level of supervision as determined
11 by the board or its designee. It shall be the respondent's responsibility to ensure that his
12 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
13 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
14 acknowledgements to the board shall be considered a violation of probation.

15 If respondent changes employment, it shall be the respondent's responsibility to ensure that
16 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
17 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
18 commences, submit notification to the board in writing stating the direct supervisor and
19 pharmacist-in-charge have read the decision in case number 4567, and is familiar with the level of
20 supervision as determined by the board. Respondent shall not practice pharmacy and his license
21 shall be automatically suspended until the board or its designee approves a new supervisor.
22 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
23 acknowledgements to the board shall be considered a violation of probation.

24 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

25 During suspension, respondent shall not enter any pharmacy area or any portion of the
26 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
27 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
28 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
3 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
4 and controlled substances. Respondent shall not resume practice until notified by the board.

5 During suspension, respondent shall not engage in any activity that requires the
6 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
7 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
8 designated representative for any entity licensed by the board.

9 Failure to comply with this suspension shall be considered a violation of probation.

10
11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Tony J. Park. I understand the stipulation and the effect it will
14 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
15 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
16 Board of Pharmacy.

17
18 DATED: 12/13/16

Clifton Eugene Braddy
CLIFTON EUGENE BRADDY
Respondent

20
21 I have read and fully discussed with Respondent Clifton Eugene Braddy the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve his form and content.

24
25 DATED: 12/16/2016

Tony J. Park
TONY J. PARK
Attorney for Respondent

ENDORSEMENT

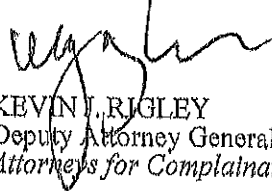
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated:

12/19/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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Brady.docx

Exhibit A

Second Amended Accusation No. 4567

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
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3 LESLIE A. WALDEN
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4567

12 **RX UNLIMITED LLC**
13 **RX UNLIMITED PHARMACY**
6815 Noble Ave. Ste. 107
14 Van Nuys, CA 91405

SECOND AMENDED ACCUSATION

15 Pharmacy Permit No. PHY 50302
16 Sterile Compounding Permit No. LSC 99642

17 and

18 **Clifton Eugene Braddy**
18333 Hatteras St. #110
19 Tarzana, CA 91356

20 Pharmacist License No. RPH 45546

21 Respondents.
22
23

24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in
27 her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

2. On or about August 14, 1992, the Board issued Pharmacist License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on April 30, 2016, unless renewed.

3. On or about June 28, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50302 to RX Unlimited LLC, dba RX Unlimited Pharmacy with the address of record of 6815 Noble Ave., Ste. 107, Van Nuys, California 91405 (Respondent RX Unlimited). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

4. On or about September 28, 2010, the Board issued Sterile Compounding Permit Number LSC 99642 to RX Unlimited LLC, dba RX Unlimited Pharmacy to compound injectable sterile drug products. The Sterile Compounding Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

JURISDICTION

5. This Second Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 118, subdivision (b), provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

7. Section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board, whose default
2 has been entered or whose case has been heard by the board and found guilty, by any of the
3 following methods:

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

6 (3) Suspending his or her right to practice for a period not exceeding one year.

7 (4) Revoking his or her license.

8 (5) Taking any other action in relation to disciplining him or her as the board in its
9 discretion may deem proper."

10 8. Section 4169 states, in pertinent part:

11 "(a) A person or entity may not do any of the following:

12 ...

13 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
14 should have known were misbranded, as defined in Section 111335 of the Health and Safety
15 Code."

16 9. Section 4342 states, in pertinent part:

17 "(a) The board may institute any action or actions as may be provided by law and that, in
18 its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do
19 not conform to the standard and tests as to quality and strength, provided in the latest edition of
20 the United States Pharmacopoeia or the National Formulary, or that violate any provision of the
21 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
22 104 of the Health and Safety Code)."

23 REGULATORY PROVISIONS

24 10. California Code of Regulations, title 16, section 1735.3 states:

25 "(a) For each compounded drug product, the pharmacy records shall include:

26 ...

27 (6) The manufacturer, expiration date and lot number of each component. If the
28 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted,

1 Exempt from the requirements in this paragraph are sterile products compounded on a one-time
2 basis for administration within seventy-two (72) hours and stored in accordance with standards
3 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National
4 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,
5 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

6 11. California Code of Regulations, title 16, section 1751.7, subdivision (c) states in
7 pertinent part that batch-produced sterile injectable drug products compounded from one or more
8 non-sterile ingredients shall be subject to documented end product testing for sterility and
9 pyrogens and shall be quarantined until the end product testing confirms sterility and acceptable
10 levels of pyrogens.

11 12. California Code of Regulations, title 16, section 1735.2 subdivisions (c) and (h)
12 state as follows:

13 "..."

14 "(c) Pursuant to Business and Professions Code section 4052 (a)(1), a "reasonable
15 quantity" of compounded drug product may be furnished to a prescriber for office use upon
16 prescriber order, where "reasonable quantity" is that amount of compounded drug product that:

17 (1) is sufficient for administration or application to patients in the prescriber's
18 office, or for distribution of not more than a 72-hour supply to the prescriber's patients, as
19 estimated by the prescriber; and

20 (2) is reasonable considering the intended use of the compounded medication and
21 the nature of the prescriber's practice; and

22 (3) for any individual prescriber and for all prescribers taken as a whole, is an
23 amount which the pharmacy is capable of compounding in compliance with
24 pharmaceutical standards for integrity, potency, quality and strength of the compounded
25 drug product."

26 "..."

27 "(h) Every compounded drug product shall be given an expiration date representing the
28 date beyond which, in the professional judgment of the pharmacist performing or supervising the

1 compounding, it should not be used. This "beyond use date" of the compounded drug product
2 shall not exceed 180 days from preparation or the shortest expiration date of any component in
3 the compounded drug product, unless a longer date is supported by stability studies of finished
4 drugs or compounded drug products using the same components and packaging. Shorter dating
5 than set forth in this subsection may be used if it is deemed appropriate in the professional
6 judgment of the responsible pharmacist."

7 "...."

8 COST RECOVERY

9 13. Section 125.3 states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 DRUG DEFINITIONS

14 14. Tri-Mix, is a sterile injectable compound comprised of three different ingredients:
15 alprostadil, phentolamine, and papaverine. All three of the products are dangerous drugs pursuant
16 to Business and Professions Code Section 4022 (c).
17

18 15. Nandrolone Decanoate 200mg/ml injection, brand name "Androlone", is used to
19 treat anemia in patients with kidney failure, is classified as a Schedule III controlled substance
20 under the Anabolic Steroids Control Act of 1990 as designated by Health and Safety Code section
21 11056 and is categorized as a dangerous drug pursuant to Business and Professions Code section
22 4022.

23 16. Hydroxyprogesterone Caproate, brand name "Makena", is a synthetic, steroidal
24 progestin that is used in pregnancy to prevent preterm labor in women, and is categorized as a
25 dangerous drug pursuant to Business and Professions Code section 4022.
26

27 ///

28 ///

FACTUAL BACKGROUND

I. May 15, 2012 Inspection

17. On or about May 15, 2012, the Board conducted an annual licensed sterile compounding inspection (LSC Inspection) at Respondent RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404.

18. During the LSC Inspection, the Board inspector reviewed RX Unlimited's end-product test results to determine sterility of compounded products.

19. Respondent Braddy stated that RX Unlimited did not conduct in-house testing of the finalized products for sterility, but rather sent the products out to Eagle Analytical Services (Eagle) for testing.

20. The Board inspector learned that for some of the compounded product results, sterility and potency testing were completed but not pyrogen testing¹.

21. RX Unlimited Pharmacy Technician B.G.² informed the Board inspector that Respondents conducted in house pyrogen testing. Respondents failed to produce documentation of the pyrogen testing results upon request.

22. The Board inspector subsequently learned that RX Unlimited possessed pyrogen test kits, but never used any of them.

23. While reviewing Eagle's testing reports, the Board inspector also observed that the potency results of multiple compounds were outside of the normal range.

24. Respondent Braddy stated that the products outside of normal range were not dispensed to consumers.

¹ A pyrogen is a protein that can induce a fever in a patient by triggering a series of immune reactions. The guaranteed absence of pyrogens is a critical safety precaution for all drugs administered parenterally, since these contaminants can pose a life-threatening risk of shock to the patient. Pyrogen testing defines a process used by drug manufacturers to determine if bacterial toxins are present in vaccines and drugs that might cause fever when used on humans. It determines if microbes or their metabolites are present in intravenous solutions during the manufacturing process.

² For potential witnesses and/or patients, initials are used in lieu of names in order to protect the privacy rights of these individuals.

1 25. During the inspection, Respondents were unable to produce compounding
2 worksheets for all products identified by the Board inspector, however, Respondent Braddy
3 admitted that RX Unlimited did not test each and every batch of sterile products to make sure
4 they were sterile.

5 26. On or about September 14, 2012, the Board conducted a follow up inspection and
6 to obtain additional pharmacy records.

7 27. The inspector requested the dispensing reports of compounds identified during the
8 May 15, 2012 inspection which were found to have potency results outside acceptable potency
9 ranges for the compound.

10 28. A review of the compounding logs, laboratory testing results, and dispensing
11 reports for Tri-Mix (alprostadil-10mcg/papaverine-30mg/phentolamine-0.5mg) revealed
12 approximately 44 compounded prescriptions which were prepared as batch products from a non-
13 sterile source and found to be outside of expected potency ranges were dispensed to consumers.

14 29. The Board inspector also selected a sample of compounding logs for end-product
15 testing and requested the prescription dispensing history for those specific lots.

16 30. The records revealed that approximately 105 sterile injectable compounded
17 prescriptions prepared as batch products from a non-sterile source were dispensed to consumers
18 without first conducting end product sterility and pyrogen testing.

19 31. A sample of compounding worksheet records also revealed that Respondent failed
20 to document the manufacturer of each ingredient used to prepare approximately 15 compounds
21 for Tri-Mix, Nandrolone, Progesterone, Testosterone, Tri-Mix XL and Quad-Mix.

22 32. A written notice of non-compliance was given to Respondents Braddy and RX
23 Unlimited at the end of the inspection.

24 **II. February 13, 2013 Inspection**

25 33. On or about February 13, 2013, the Board conducted an inspection at Respondent
26 RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404 after a complaint was
27 made by T.Corp. alleging that Respondents continued to compound large quantities of
28

1 hydroxyprogesterone caproate (HPC) injection outside the scope of traditional pharmacy
2 compounding.

3 34. Respondent Clifton Braddy was not present during the inspection. Pharmacist
4 N.P. was present and provided the documents requested during the inspection. At the conclusion
5 of the inspection, Respondent Braddy was notified that he was required to supplement the
6 documents collected during the inspection within 14 days. After review of all documents
7 provided at the inspection site, as well as those provided thereafter by Respondents, the following
8 findings were made.

9 35. Respondents' sterile compounding worksheets were reviewed and revealed that the
10 Respondents were compounding nandrolone deconoate 200mg/ml injection with a beyond the use
11 date of 180 days despite the Master Formula's estimated 90 days beyond the use date.
12 Respondents were unable to provide stability studies that supported the 180 days beyond the use
13 date for the nandrolone deconoate 200mg/ml.

14 36. Respondents' compounding logs revealed that they were compounding and
15 dispensing HPC injections outside of the scope of traditional pharmacy compounding practices in
16 that the HPC injections were commercially available in the marketplace and there was no specific
17 need for said drug. The records revealed that a total of six (6) prescriptions were filled from
18 January 1, 2012 through February 13, 2013 as follows: RX No. 100897, dispensed June 19,
19 2012, RX No. 100898, dispensed June 19, 2012, RX No. 100907, dispensed June 21, 2012, RX
20 No. 100907, dispensed September 5, 2012, RX No. 101765, dispensed November 27, 2012, and
21 RX No. 101765, dispensed December 28, 2012.

22 FIRST CAUSE FOR DISCIPLINE

23 (Misbranded Drugs)

24 37. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
25 action under section 4169 subdivision (a)(3) in conjunction with section 4342 in that inspections
26 conducted on or about May 15, 2012, and September 13, 2012, revealed that Respondents
27 purchased, traded, sold or transferred dangerous drugs that Respondents knew or should have
28

1 reasonably known were misbranded, as defined in section 11135 of the Health and Safety Code.
2 Complainant incorporates by reference paragraphs 17 – 32, as if fully set forth herein.

3 SECOND CAUSE FOR DISCIPLINE

4 (Sterile Compounding – Quality Assurance)

5 38. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
6 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1751.7,
7 subdivision (c) in that an inspection conducted on September 14, 2012, revealed that Respondents
8 did not test for sterility and pyrogen for each sterile injectable batch product prepared from a non-
9 sterile source prior to dispensing the product. Complainant incorporates by reference paragraphs
10 17 – 32, as if fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Records of Compounding Drug Products)

13 39. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
14 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.3,
15 subdivision (a) (6) in that inspections conducted on or about May 15, 2012, and September 13,
16 2012, revealed that Respondents failed to identify the name of the manufacturer of each
17 ingredient of a compounded drug prior to dispensing the product. Complainant incorporates by
18 reference paragraphs 26 – 32, as if fully set forth herein.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Compounding Limitations and Requirements; Self Assessment)

21 40. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
22 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 Section 1735.2,
23 subdivision (h) in that the inspection on February 13, 2013, and the records thereafter provided,
24 revealed that Respondents had compounding worksheets for nandrolone deconoate 200/mg/ml
25 that showed a beyond the use date of 180 days despite a master formula estimated 90 days beyond
26 the use date. In addition, Respondents were unable to provide stability studies that supported the
27 beyond the use date of 180 days. Complainant incorporates by reference paragraphs 33 - 35, as if
28 fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Compounding Limitations)

3 41. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
4 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.2,
5 subdivision (c) in that the inspection on February 13, 2013, and the records thereafter provided,
6 revealed that Respondents were compounding and dispensing HPC injections in a form that is
7 essentially a copy of a product which is commercially available in the market place. Complainant
8 incorporates by reference paragraphs 33, 34 & 36, as if fully set forth herein.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

- 12 1. Revoking or suspending Pharmacist License Number RPH 45546 issued to Clifton
13 Eugene Braddy;
- 14 2. Revoking or suspending Sterile Compounding Permit Number LSC 99642 issued
15 to RX Unlimited LLC;
- 16 3. Revoking or suspending Pharmacy Permit Number PHY 50302, issued to RX
17 Unlimited LLC, dba RX Unlimited Pharmacy;
- 18 4. Ordering RX Unlimited LLC and Clifton Eugene Braddy, Pharmacist-in-Charge,
19 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3; and
- 21 5. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/3/15

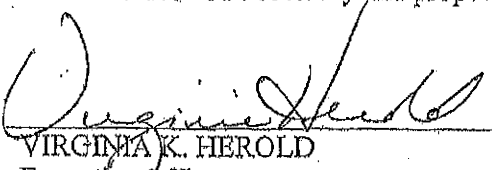

24 VIRGINIA K. HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

EXHIBIT “D”

Decision and Order in Accusation Case No. 2000-C

(Respondent Friedman)

1 BILL LOCKYER, Attorney General
of the State of California
2 ANTONIO J. MERINO, State Bar No. 64401
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 897-2540
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2000-C

12 BEN FRIEDMAN, INC., dba
BOULEVARD PHARMACY
13 16311 Ventura Boulevard
Encino, CA 91436
14 BEN FRIEDMAN, President (6-5-85 to present)
and Pharmacist-in-Charge (6-5-85 to 8-10-99),
15 SUSAN FRIEDMAN, Secretary
Pharmacy No. PHY 30415

**STIPULATED SETTLEMENT AND
ORDER**

16 BENJAMIN FRIEDMAN
17 29360 Queens Way
Agoura Hills, CA 91301
18 Pharmacist License No. RPH 32590

19 and

20 SUSAN FRIEDMAN
29360 Queens Way
21 Agoura Hills, CA 91301
Pharmacist License No. RPH 32592

22 Respondents.
23

24
25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
26 above-entitled proceedings that the following matters are true:

27 PARTIES

28 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of

Pharmacy. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Antonio J. Merino, Deputy Attorney General.

2. Respondents Ben Friedman, Inc., dba Boulevard Pharmacy, Ben Friedman, and Susan Friedman are represented in this proceeding by attorney Ronald S. Marks, whose address is Trillium Tower East, Suite 1550, 6320 Canoga Avenue, Woodland Hills, CA 91367.

3. On or about March 1, 1984, the Board of Pharmacy issued Pharmacy License¹ No. PHY 30415 to Ben Friedman, Inc., dba Boulevard Pharmacy (Respondent Boulevard Pharmacy). The corporate officers are Ben Friedman, President, and Susan Friedman, Secretary. Ben Friedman, RPH 32590, was the Pharmacist-in-Charge from June 5, 1985 to August 10, 1999. At all times relevant herein, said license was, and currently is, in full force and effect.

4. On or about November 27, 1979, Original Licentiate Number RPH 32590 was issued by the Board to Benjamin Friedman (“respondent Ben Friedman”), to practice pharmacy in California and at all times relevant herein, said license has been and now is, in full force and effect.

5. On or about November 27, 1979, Original Licentiate Number RPH 32592 was issued by the Board to Susan Friedman (“respondent Susan Friedman”), to practice pharmacy in California and at all relevant times herein, said license has been and now is, in full force and effect.

JURISDICTION

6. Accusation No. 2000-C was filed before the Board of Pharmacy of the Department of Consumer Affairs, (Board), and is currently pending against Respondents. The Accusation, together with all other statutorily required documents were properly served on Respondents on September 26, 2000, and Respondents timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No. 2000-C is attached as exhibit A and incorporated herein by reference.

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1 proceeding.

2 CONTINGENCY

3 14. This stipulation shall be subject to approval by the Board. Respondents
4 understand and agree that the Board of Pharmacy's staff and counsel for Complainant may
5 communicate directly with the Board regarding this stipulation and settlement, without notice to
6 or participation by Respondents or their counsel. By signing the stipulation, Respondents
7 understand and agree that they may not withdraw its agreement or seek to rescind the stipulation
8 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
9 as its Decision and Order, the Stipulated Settlement and Order shall be of no force or effect,
10 except for this paragraph, it shall be inadmissible in any legal action between the parties, and the
11 Board shall not be disqualified from further action by having considered this matter.

12 15. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Order, including facsimile signatures thereto, shall have the same force and effect
14 as the originals.

15 16. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board may, without further notice or formal proceeding, issue and enter the
17 following Order:

18 ORDER

19 IT IS HEREBY ORDERED that public reprovals be issued to Respondents Ben
20 Friedman, Inc., dba Boulevard Pharmacy, Pharmacy Permit No. PHY 30415; Benjamin
21 Friedman, Pharmacist License No. RPH 32590, and Susan Friedman, Pharmacist License No.
22 RPH 32592.

23 Respondents Ben Friedman, Inc., dba Boulevard Pharmacy, Benjamin Friedman,
24 and Susan Friedman, are each, jointly and severally, liable to pay the Board the costs of
25 investigation and prosecution in the amount of \$8000 within sixty (60) days of the effective date
26 of this decision and order.

27 ///

28 ///

02:49P

JUSTICE

213 897 2804;


09/13/01 15:36; JctFax #692; Page 7/10

P.01

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Order and have fully discussed it with my attorney, Ronald S. Marks. I understand the stipulation and the effect it will have on Pharmacy Permit No. PHY 30415, Pharmacist License No. RPH 32590, and Pharmacist License No. RPH 32592. I enter into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

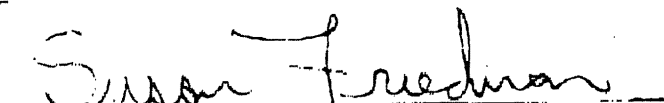
DATED: 9/24/01


BEN FRIEDMAN, INC, dba Boulevard Pharmacy
Respondent

DATED 9/24/01


BENJAMIN FRIEDMAN
Respondent

DATE 9/24/01


SUSAN FRIEDMAN
Respondent

I have read and fully discussed with Respondents the terms and conditions and other matters contained in the above Stipulated Settlement and Order. I approve its form and content.

DATED 9/24/01



RONALD S. MARKS
Attorney for Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Order is hereby respectfully submitted
3 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
4

5 DATED: 10-18-01.

6 BILL LOCKYER, Attorney General
7 of the State of California

8 

9 ANTONIO J. MERINO
10 Deputy Attorney General

11 Attorneys for Complainant
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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

BEN FRIEDMAN, INC., dba BOULEVARD
PHARMACY, BENJAMIN FRIEDMAN, AND
SUSAN FRIEDMAN,

Respondents.

Case No. 2000-C

DECISION AND ORDER

The attached Stipulated Settlement and Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 7, 2002.

It is so ORDERED January 8, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

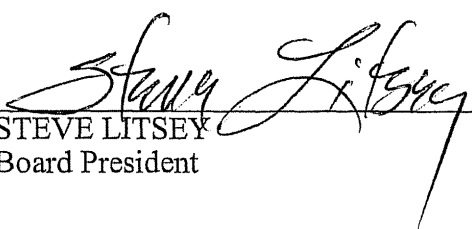

STEVE LITSEY
Board President

Exhibit A
Accusation No. 2000-C

1 BILL LOCKYER, Attorney General
of the State of California
2 ANTONIO J. MERINO,
Deputy Attorney General, State Bar No. 64401
3 Department of Justice
300 South Spring Street
4 Los Angeles, California 90013
Telephone: (213) 897-2540
5
6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Accusation) NO. 2000-C
Against:)
11)
12 BEN FRIEDMAN, INC., dba) ACCUSATION
BOULEVARD PHARMACY)
13 16311 Ventura Boulevard)
Encino, CA 91436)
14 BEN FRIEDMAN, President (6-5-85 to)
present) and Pharmacist-in-Charge)
(6-5-85 to 8-10-99),)
15 SUSAN FRIEDMAN, Secretary)
Pharmacy No. PHY 30415)
16)
BENJAMIN FRIEDMAN)
17 29360 Queens Way)
Agoura Hills, CA 91301)
18 Pharmacist License No. RPH 32590)
19 and)
20 SUSAN FRIEDMAN)
29360 Queens Way)
21 Agoura Hills, CA 91301)
Pharmacist License No. RPH 32592)
22)
Respondents.)
23)

24 Complainant Patricia F. Harris, as cause for
25 disciplinary action, alleges:

26 **PARTIES**

27 1. Complainant is the Executive Officer of the

1 California State Board of Pharmacy ("Board") and makes and files
2 this accusation solely in her official capacity.

3 License Status

4 2. On or about March 1, 1984, Pharmacy No. PHY 30415
5 was issued by the Board to Ben Friedman, Inc., dba Boulevard
6 Pharmacy ("respondent Boulevard Pharmacy"), with an address of
7 record of 16311 Ventura Boulevard, Encino, California 91436. The
8 corporate officers are Ben Friedman, President, and Susan
9 Friedman, Secretary. Ben Friedman, RPH 32590, was the
10 Pharmacist-in-Charge from June 5, 1985, through August 10, 1999.
11 Gene Sperling, was and still is the Pharmacist-in-Charge from
12 August 10, 1999, through the present. At all times relevant
13 herein, said license was, and currently is, in full force and
14 effect.

15 3. On or about November 27, 1979, Original Licentiate
16 Number RPH 32590 was issued by the Board to Benjamin Friedman
17 ("respondent Ben Friedman"), to practice pharmacy in California
18 and at all times relevant herein, said license has been and now
19 is, in full force and effect and will expire on June 30, 2001,
20 unless renewed.

21 4. On or about November 27, 1979, Original Licentiate
22 Number RPH 32592 was issued by the Board to Susan Friedman
23 ("respondent Susan Friedman"), to practice pharmacy in California
24 and at all relevant times herein, said license has been and now
25 is in full force and effect and will expire on June 30, 2001,
26 unless renewed.

27 ///

STATUTES

5. Business and Professions Code section 4300 (formerly section 4350) permits the Board to take disciplinary action to suspend or revoke a license or permit, and to take disciplinary action against the holder of a license or permit.

6. Business and Professions Code section 118(b) provides that the suspension, expiration, or forfeiture by operation of law of a certificate does not deprive the Board of authority or jurisdiction to institute or continue with disciplinary action against the holder of a certificate during the period within which the certificate may be renewed, restored, reissued, or reinstated.

7. Business and Professions Code section 4301 (formerly section 4350.5) provides in pertinent part that the Board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Said section further provides that unprofessional conduct shall include, but is not limited to:

(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of the Pharmacy Law or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the

1 Board. (Formerly section 4350.5.)

2 8. Business and Professions Code section 4081
3 (formerly section 4232) provides in part, that the owner,
4 officer, and partner of any pharmacy shall be responsible, along
5 with the pharmacist-in-charge, for maintaining all records of the
6 acquisition or disposition of dangerous drugs for at least three
7 years from their making.

8 9. Business and Professions Code section 4113(b)
9 (formerly section 4054(b)) provides, in part, that the
10 pharmacist-in-charge shall be responsible for a pharmacy's
11 compliance with all state and federal laws and regulations
12 pertaining to the practice of pharmacy.

13 10. Business and Professions Code section 4332
14 (formerly section 4232) provides that any person who fails,
15 neglects, or refuses to maintain the records required by Section
16 4081 or who, when called upon by an authorized officer or a
17 member of the Board, fails, neglects, or refuses to produce or
18 provide the records within a reasonable time, or who willfully
19 produces or furnishes records that are false is guilty of a
20 misdemeanor.

21 11. Health and Safety Code section 111340 provides in
22 part that any drug is misbranded unless it bears a label
23 containing (a) the name and place of business of the
24 manufacturer, packer, or distributor; (b) an accurate statement
25 of the quantity of the contents in terms of weight, measure or
26 numerical count.

27 ///

1 12. Business and Professions Code section 125.3 state,
2 in pertinent part, that the Board may request the administrative
3 law judge to direct a licentiate found to have committed a
4 violation or violations of the licensing act to pay a sum not to
5 exceed the reasonable costs of the investigation and enforcement
6 of the case.

7 CHARGES

8 13. Respondents Boulevard Pharmacy, Ben Friedman and
9 Susan Friedman are subject to disciplinary action on account of
10 the following:

11 (a) On or about February 14, 1996, an inspection
12 of respondent Boulevard's premises by Board inspectors
13 uncovered overfilled stock containers of the following
14 outdated or expired drugs: Morphine Sulfate (173
15 tablets in a manufacturer's bottle marked 100);
16 Glucotrol XL 5 (210 tablets in a manufacturer's bottle
17 marked 100 tablets); and Trandate 100 mg. (238 tablets
18 in a manufacturer's bottle marked 100 tablets).
19 Additional containers were uncovered, including Prozac
20 20mg. (one container overfilled with 135 pulvules) and
21 Zantac with no price stickers. These drugs did not
22 have labels with an accurate statement of quantity of
23 contents.

24 (b) The Board inspectors demanded to see records
25 of acquisition for the drugs listed in subparagraph (a)
26 hereinabove. Respondent Ben Friedman was unable to
27 provide invoices or other records of acquisition,

1 stating he did not know that he had to keep any, and
2 saying that as soon as he paid the invoice, it is
3 discarded.

4 (c) The Board inspectors also uncovered the
5 following vials, the contents of which were
6 inconsistent with the labels or other records of
7 dispensing: vial labeled as prescription number 280758M
8 showing the manufacturer as Rugby but the tablets
9 contained were manufactured by West-ward; a vial
10 labeled as prescription number 414227 with a Venwood
11 Pharmacy label with manufacturer symbol for Mylan but
12 contained capsules manufacture by Zenith; vial labeled
13 as prescription number 272881, indicating 100 tablets
14 but containing only 80 tablets.

15 14. As a result of the conduct described in paragraph
16 13, subparagraph (a) and (c), respondents Boulevard Pharmacy and
17 Ben Friedman are subject to discipline under Business and
18 Professions Code sections 4301 (j) and (o), for having violated
19 Health and Safety Code section 111340 by failing to accurately
20 label drug containers with accurate statements of manufacturer or
21 quantity of contents.

22 15. As a result of the conduct described in paragraph
23 13, subparagraph (b), respondents Boulevard Pharmacy, Ben
24 Friedman, and Susan Friedman are subject to discipline under
25 Business and Professions Code sections 4301 (j) and (o) for
26 having violated Business and Professions Code sections 4081 and
27 4332 by failing to keep records of acquisition for the period

1 February 1993 to February 1996 on the premises and to make them
2 available for inspectors during business hours.

3 16. As pharmacist-in-charge, respondent Benjamin
4 Friedman is responsible under Business and Professions Code
5 section 4113(b) for the violations committed by respondent
6 Boulevard Pharmacy described hereinabove at paragraphs 13 through
7 15.

8 17. As an officer of respondent Boulevard Pharmacy,
9 Susan Friedman is responsible with respondent Ben Friedman for
10 the violations committed by respondent Boulevard described in
11 paragraph 13, subparagraph (b) and paragraph 15.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held
14 on the matters herein alleged, and that following the hearing,
15 the Board of Pharmacy issue a decision:

16 1. Revoking or suspending Pharmacy License No. PHY
17 330415, issued to Ben Friedman, Inc., dba Boulevard Pharmacy.

18 2. Revoking or suspending Pharmacist License No. RPH
19 32590, issued to Benjamin Friedman.

20 3. Revoking or suspending Pharmacist License No. RPH
21 32592 issued to Susan Friedman.

22 ///

1 4. Ordering, jointly and separately, Ben Friedman,
2 Inc., dba Boulevard Pharmacy, Benjamin Friedman, and Susan
3 Friedman to pay the Board of Pharmacy the reasonable costs of its
4 investigation and enforcement of the case, pursuant to Business
5 and Professions Codes section 125.3.

6 5. Taking such other and further action as the Board
7 of Pharmacy deems necessary and proper.

8
9 DATED: 8/7/00.

10
11 *P. F. Harris*
12 _____
13 PATRICIA F. HARRIS
14 Executive Officer
15 Board of Pharmacy
16 State of California

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Complainant

EXHIBIT “E”

**Decision and Order in Third Amended Accusation/Petition to Revoke Case No. 6319
(Respondent Averbukh)**

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED, LLC DBA RX UNLIMITED PHARMACY, BRIAN PAUL
SOHAN GOLDSTEIN, PAUL RAY GOLDSTEIN
Pharmacy Permit No. PHY 50302 and
Sterile Compounding Permit No. LSC 99642;**

CLIFTON EUGENE BRADDY, Pharmacist License No. RPH 45546;

**BRIAN PAUL SOHAN GOLDSTEIN, Pharmacy Technician Registration
No. TCH 101671;**

STEPHANIE SOPHIA AVERBUKH, Pharmacist License No. RPH 67571;

Respondents

Agency Case No. 6319

OAH No. 2019070633

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on July 29, 2020.

It is so ORDERED on June 29, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", written in a cursive style.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6301
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Third Amended
11 Accusation/Petition to Revoke Probation Against:

12 **RX UNLIMITED, LLC DBA RX UNLIMITED**
PHARMACY, BRIAN PAUL SOHAN
13 **GOLDSTEIN, PAUL RAY GOLDSTEIN**
16673 Roscoe Blvd.
14 North Hills, CA 91343

15 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642,

16 **CLIFTON EUGENE BRADDY**
17 18333 Hatteras St., #110
Tarzana, CA 91356

18 Pharmacist License No. RPH 45546,

19 **BRIAN PAUL SOHAN GOLDSTEIN**
20 8641 Wilshire Blvd, Suite 120
Beverly Hills, CA 90211

21 Pharmacy Technician Registration No. TCH
22 101671,

23 and

24 **STEPHANIE SOPHIA AVERBUKH**
13443 Debby Street
25 Valley Glen, CA 91401

26 Pharmacist License No. RPH 67571

27 Respondents.
28

Case No. 6319

OAH No. 2019070633

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT STEPHANIE SOPHIA
AVERBUKH, LICENSE NO. RPH
67571

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 **PARTIES**

4 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
5 (Board). She brought this action solely in her official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
7 General.

8 2. Respondent Stephanie Sofia Averbukh is represented in this proceeding by attorney
9 Tony J. Park, whose address is: 49 Discovery, Suite 240, Irvine, CA 92618-6713.

10 3. On or about August 16, 2012, the Board of Pharmacy issued Registered Pharmacist
11 License Number RPH 67571 to Stephanie Sophia Averbukh (Respondent). The Registered
12 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
13 and will expire on January 31, 2022, unless renewed.

14 **JURISDICTION**

15 4. Third Amended Accusation and Petition to Revoke Probation No. 6319 was filed
16 before the Board, and is currently pending against Respondent. The Third Amended Accusation
17 and Petition to Revoke Probation and all other statutorily required documents were properly
18 served on Respondent on February 11, 2020. Respondent timely filed his Notice of Defense
19 contesting the Third Amended Accusation and Petition to Revoke Probation.

20 5. A copy of Third Amended Accusation and Petition to Revoke Probation No. 6319 is
21 attached as exhibit A and incorporated herein by reference.

22 **ADVISEMENT AND WAIVERS**

23 6. Respondent has carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Third Amended Accusation and Petition to Revoke Probation No.
25 6319. Respondent has also carefully read, fully discussed with counsel, and understands the
26 effects of this Stipulated Settlement and Disciplinary Order.

27 ///

28 ///

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Third Amended Accusation and Petition to Revoke Probation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Third Amended Accusation and Petition to Revoke Probation No. 6319.

10. Respondent agrees that her Pharmacist License is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

///

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 67571 issued to Stephanie Sofia Averbukh is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions.

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy- two (72) hours of such occurrence:

an arrest or issuance of a criminal complaint for violation of any provision of the

Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal

criminal proceeding to any criminal complaint, information or indictment

a conviction of any crime

the filing of a disciplinary pleading, issuance of a citation, or initiation of another

administrative action filed by any state or federal agency which involves

respondent's license or which is related to the practice of pharmacy or the

manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

1 Failure to timely report such occurrence shall be considered a violation of probation.

2 **2. Report to the Board**

3 Respondent shall report to the Board quarterly, on a schedule as directed by the board or its
4 designee. The report shall be made either in person or in writing, as directed. Among other
5 requirements, Respondent shall state in each report under penalty of perjury whether there has
6 been compliance with all the terms and conditions of probation.

7 Failure to submit timely reports in a form as directed shall be considered a violation of
8 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
9 total period of probation. Moreover, if the final probation report is not made as directed,
10 probation shall be automatically extended until such time as the final report is made and accepted
11 by the Board.

12 **3. Interview with the Board**

13 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
14 with the Board or its designee, at such intervals and locations as are determined by the Board or
15 its designee. Failure to appear for any scheduled interview without prior notification to Board
16 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
17 during the period of probation, shall be considered a violation of probation.

18 **4. Cooperate with Board Staff**

19 Respondent shall timely cooperate with the Board's inspection program and with the
20 Board's monitoring and investigation of Respondent's compliance with the terms and conditions
21 of her probation, including but not limited to: timely responses to requests for information by
22 board staff; timely compliance with directives from board staff regarding requirements of any
23 term or condition of probation; and timely completion of documentation pertaining to a term or
24 condition of probation. Failure to timely cooperate shall be considered a violation of probation.

25 **5. Reporting of Employment and Notice to Employers**

26 During the period of probation, Respondent shall notify all present and prospective
27 employers of the decision in case number 6319 and the terms, conditions and restrictions imposed
28 on Respondent by the decision, as follows:

1 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
2 undertaking any new employment, Respondent shall report to the board in writing the name,
3 physical address, and mailing address of each of her employer(s), and the name(s) and telephone
4 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in- charge, designated
5 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
6 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
7 employment. Respondent shall sign and return to the Board a written consent authorizing the
8 board or its designee to communicate with all of Respondent's employer(s) and supervisor(s), and
9 authorizing those employer(s) or supervisor(s) to communicate with the Board or its designee,
10 concerning Respondent's work status, performance, and monitoring. Failure to comply with the
11 requirements or deadlines of this condition shall be considered a violation of probation.

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 Respondent undertaking any new employment, Respondent shall cause (a) her direct supervisor,
14 (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
15 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
16 board in writing acknowledging that the listed individual(s) has/have read the decision in case
17 number 6319, and terms and conditions imposed thereby. If one person serves in more than one
18 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's
19 responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the
20 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
21 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in
22 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
23 in case number 6319, and the terms and conditions imposed thereby.

24 If Respondent works for or is employed by or through an employment service, Respondent
25 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board
26 of the decision in case number 6319, and the terms and conditions imposed thereby in advance of
27 Respondent commencing work at such licensed entity. A record of this notification must be
28 provided to the Board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment by or through an employment service, Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that he or she has read the decision in case number, and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

Failure to timely notify present or prospective employer(s) or failure to cause the identified person(s) with that/those employer(s) to submit timely written acknowledgments to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision includes any full-time, part-time, temporary, relief, or employment/management service position as a pharmacist, or any position for which a pharmacist is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

6. Notification of Change(s) in Name, Address(es), or Phone Number(s)

Respondent shall further notify the Board in writing within ten (10) days of any change in name, residence address, mailing address, e-mail address or phone number.

Failure to timely notify the Board of any change in employer, name, address, or phone number shall be considered a violation of probation.

7. Restrictions on Supervision and Oversight of Licensed Facilities

During the period of probation, Respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager or other compliance supervisor of any entity licensed by the Board, nor serve as a consultant. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$3,345.99. Respondent shall make said payments as follows:

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Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation.

There shall be no deviation from this schedule absent prior written approval by the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

9. Probation Monitoring Costs

Respondent shall pay any costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

10. Status of License

Respondent shall, at all times while on probation, maintain an active, current Pharmacist License with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current Pharmacist License shall be considered a violation of probation.

If Respondent's Pharmacist License expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

11. License Surrender While on Probation/Suspension

Following the effective date of this decision, should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may relinquish her license, including any indicia of licensure issued by the Board, along with a request to surrender the license. The Board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to

1 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
2 become a part of the Respondent's license history with the Board.

3 Upon acceptance of the surrender, Respondent shall relinquish her pocket and/or wall
4 license, including any indicia of licensure not previously provided to the board within ten (10)
5 days of notification by the board that the surrender is accepted if not already provided.
6 Respondent may not reapply for any license from the Board for three (3) years from the effective
7 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
8 of the date the application for that license is submitted to the Board, including any outstanding
9 costs.

10 12. Practice Requirement – Extension of Probation

11 Except during periods of suspension, Respondent shall, at all times while on probation, be
12 employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any
13 month during which this minimum is not met shall extend the period of probation by one month.
14 During any such period of insufficient employment, Respondent must nonetheless comply with
15 all terms and conditions of probation, unless Respondent receives a waiver in writing from the
16 Board or its designee.

17 If Respondent does not practice as a pharmacist in California for the minimum number of
18 hours in any calendar month, for any reason (including vacation), Respondent shall notify the
19 Board in writing within ten (10) days of the conclusion of that calendar month. This notification
20 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
21 interruption or reduction in practice; and the anticipated date(s) on which Respondent will resume
22 practice at the required level. Respondent shall further notify the Board in writing within ten (10)
23 days following the next calendar month during which Respondent practices as a pharmacist in
24 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
25 considered a violation of probation.

26 It is a violation of probation for Respondent's probation to be extended pursuant to the
27 provisions of this condition for a total period, counting consecutive and non-consecutive months,
28

1 exceeding thirty-six (36) months. The Board or its designee may post a notice of the extended
2 probation period on its website.

3 13. Violation of Probation

4 If Respondent has not complied with any term or condition of probation, the Board shall
5 have continuing jurisdiction over Respondent, and the Board shall provide notice to Respondent
6 that probation shall automatically be extended, until all terms and conditions have been satisfied
7 or the board has taken other action as deemed appropriate to treat the failure to comply as a
8 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
9 Board or its designee may post a notice of the extended probation period on its website.

10 If Respondent violates probation in any respect, the Board, after giving Respondent notice
11 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
12 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
13 probation, or the preparation of an accusation or petition to revoke probation is requested from
14 the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of
15 probation shall be automatically extended until the petition to revoke probation or accusation is
16 heard and decided, and the charges and allegations in Accusation No. 6319 shall be deemed true
17 and correct.

18 14. Completion of Probation

19 Upon written notice by the Board or its designee indicating successful completion of
20 probation, Respondent's license will be fully restored.

21 15. Ethics Course

22 Within two (2) years of the effective date of this decision, Respondent shall enroll in the
23 Board approved ethics course (IMQ), at Respondent's expense, approved in advance by the Board
24 or its designee. Failure to initiate the course during the first year of probation, and complete it
25 within the second year of probation, is a violation of probation.

26 Respondent shall submit a certificate of completion to the Board or its designee within five
27 days after completing the course.

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16. **No Ownership or Management of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any her licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Tony J. Park. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 4/24/20


STEPHANIE SOFIA AVERBUKH
Respondent

I have read and fully discussed with Respondent Stephanie Sofia Averbukh the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

TONY J. PARK
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: 4/27/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Third Amended Accusation and Petition to Revoke No. 6319

1 XAVIER BECERRA
Attorney General of California
2 LINDA SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6301
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Third Amended
12 Accusation and Petition to Revoke Probation
Against:

Case No. 6319

13 **RX UNLIMITED, LLC DBA RX**
14 **UNLIMITED PHARMACY,**
15 **BRIAN PAUL SOHAN GOLDSTEIN –**
MEMBER

THIRD AMENDED ACCUSATION AND
PETITION TO REVOKE PROBATION

16 16673 Roscoe Blvd.
North Hills, CA 91343

17 Pharmacy Permit No. PHY 50302
18 Sterile Compounding Permit No. LSC 99642,

19 **and**

20 **CLIFTON EUGENE BRADDY**

21 18333 Hatteras St. # 110
Tarzana, CA 91356

22 Registered Pharmacist License No. RPH 45546

23 **and**

24 **BRIAN PAUL SOHAN GOLDSTEIN**

25 8641 Wilshire Blvd, Suite 120
Beverly Hills, CA 90211

26 Pharmacy Technician Registration No. TCH
101671

27 *(Continued on next page)*
28

1 **Rx Unlimited Pharmacy**

2 **Sterile Compounding Permit**

3 4. On or about September 28, 2010, the Board issued Sterile Compounding Permit
4 Number LSC 99642 to Respondent Rx Unlimited Pharmacy. The Sterile Compounding Permit
5 was in full force and effect at all times relevant to the charges brought herein and will expire on
6 June 1, 2020, unless renewed.

7 **Clifton Eugene Braddy**

8 **Pharmacist-in-Charge (June 28, 2010 – November 9, 2015)**

9 5. On or about August 14, 1992, the Board of Pharmacy issued Registered Pharmacist
10 License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Registered
11 Pharmacist License, which was in full force and effect at all times relevant to the charges brought
12 herein, expired on April 30, 2018, and was subsequently cancelled on May 31, 2018 after
13 Respondent Braddy voluntarily surrendered his license pursuant to the terms and conditions of his
14 probation.

15 6. In a disciplinary action entitled "In the Matter of the Accusation Against Rx
16 Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567,
17 the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which
18 Respondent Braddy's Pharmacist License was revoked. However, the revocation was stayed, and
19 Respondent Braddy's Pharmacist License was placed on probation for five (5) years, with certain
20 terms and conditions. A copy of that Decision and Order is attached as Exhibit B and is
21 incorporated herein by reference.

22 **Brian Paul Sohan Goldstein**

23 **Original Pharmacy Technician**

24 7. On or about May 4, 2010, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 101671 to Brian Paul Sohan Goldstein (Respondent Goldstein). The
26 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
27 brought herein and will expire on September 30, 2021, unless renewed.

28 ///

1 **Stephanie Sophia Averbukh**

2 **Pharmacist-in-Charge (November 9, 2015 - January 19, 2018)**

3 8. On or about August 16, 2012, the Board of Pharmacy issued Registered Pharmacist
4 License Number RPH 67571 to Stephanie Sophia Averbukh (Respondent Averbukh). The
5 Registered Pharmacist License was in full force and effect at all times relevant to the charges
6 brought herein and will expire on January 31, 2022, unless renewed.

7 **JURISDICTION AND STATUTORY PROVISIONS**

8 9. This Third Amended Accusation and Petition to Revoke Probation is brought before
9 the Board under the authority of the following laws. All section references are to the Business
10 and Professions Code (Code) unless otherwise indicated.

11 10. Section 4300.1 of the Code states:

12 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
13 operation of law or by order or decision of the board or a court of law, the placement of a license
14 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
15 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
16 proceeding against, the licensee or to render a decision suspending or revoking the license."

17 11. Section 4300 of the Code states, in pertinent part:

18 "(a) Every license issued may be suspended or revoked.

19 "(b) The board shall discipline the holder of any license issued by the board, whose default
20 has been entered or whose case has been heard by the board and found guilty, by any of the
21 following methods:

22 "(1) Suspending judgment.

23 "(2) Placing him or her upon probation.

24 "(3) Suspending his or her right to practice for a period not exceeding one year.

25 "(4) Revoking his or her license.

26 "(5) Taking any other action in relation to disciplining him or her as the board in its
27 discretion may deem proper."

28

1 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
2 certificate of licensure for any violation of the terms and conditions of probation. Upon
3 satisfactory completion of probation, the board shall convert the probationary certificate to a
4 regular certificate, free of conditions."

5 12. Section 4022 of the Code states:

6 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
7 humans or animals, and includes the following:

8 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
9 prescription," "Rx only," or words of similar import.

10 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
11 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with
12 the designation of the practitioner licensed to use or order use of the device.

13 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
14 prescription or furnished pursuant to Section 4006."

15 13. Section 4059.5 states, in pertinent part:

16

17 "(e) A dangerous drug or dangerous device shall not be transferred, sold, or delivered to a
18 person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer
19 does so in compliance with the laws of this state and of the United States and of the state or
20 country to which the dangerous drugs or dangerous devices are to be transferred, sold, or
21 delivered. Compliance with the laws of this state and the United States and of the state or country
22 to which the dangerous drugs or dangerous devices are to be delivered shall include, but not
23 limited to, determining that the recipient of the dangerous drugs or dangerous devices is
24 authorized by law to receive the dangerous drugs or dangerous devices."

25 14. Section 4301 states, in pertinent part:

26 "The board shall take action against any holder of a license who is guilty of unprofessional
27 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
28 not limited to, any of the following:

1

2 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
3 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
4 whether the act is a felony or misdemeanor or not.”

5 “(g) Knowingly making or signing any certificate or other document that falsely represents
6 the existence or nonexistence of a state of facts.”

7

8 “(j) The violation of any of the statutes of this state, of any other state, or of the United
9 States regulating controlled substances and dangerous drugs.”

10

11 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
12 violation of or conspiring to violate any provision or term of this chapter or of the applicable
13 federal and state laws and regulations governing pharmacy, including regulations established by
14 the board or by any other state or federal regulatory agency.

15 15. Health and Safety Code section 11162.1 states, in pertinent part:

16 “(a) The prescription forms for controlled substances shall be printed with the following
17 features:

18 “(1) A latent, repetitive “void” pattern shall be printed across the entire front of the
19 prescription blank; if a prescription is scanned or photocopied, the word “void” shall appear in a
20 pattern across the entire front of the prescription.

21 “(2) A watermark shall be printed on the backside of the prescription blank; the watermark
22 shall consist of the words “California Security Prescription.”

23 “(3) A chemical void protection that prevents alteration by chemical washing.

24 “(4) A feature printed in thermochromic ink.

25 “(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

26 “(6) A description of the security features included on each prescription form.

27 “(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may
28 indicate the quantity by checking the applicable box where the following quantities shall appear:

1 “1–24

2 “25–49

3 “50–74

4 “75–100

5 “101–150

6 “151 and over.

7 “(B) In conjunction with the quantity boxes, a space shall be provided to designate the units
8 referenced in the quantity boxes when the drug is not in tablet or capsule form.

9 “(8) Prescription blanks shall contain a statement printed on the bottom of the prescription
10 blank that the “Prescription is void if the number of drugs prescribed is not noted.”

11 “(9) The preprinted name, category of licensure, license number, federal controlled
12 substance registration number, and address of the prescribing practitioner.

13 “(10) Check boxes shall be printed on the form so that the prescriber may indicate the
14 number of refills ordered.

15 “(11) The date of origin of the prescription.

16 “(12) A check box indicating the prescriber’s order not to substitute.

17 “(13) An identifying number assigned to the approved security printer by the Department of
18 Justice.”

19 16. Section 4307 of the Code states, in pertinent part:

20 “(a) Any person who has been denied a license or whose license has been revoked or is
21 under suspension, or who has failed to renew his or her license while it was under suspension, or
22 who has been a manager, administrator, owner member, officer, director, associate, partner, or
23 any other person with management or control of any partnership, corporation, firm, or association
24 whose application for a license has been denied or revoked, is under suspension or has been
25 placed on probation, and while acting as the manger, administrator, owner, member, officer,
26 director, associate, partner, or any other person with management or control had knowledge or
27 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
28 placed on probation, shall be prohibited from serving as a manger, administrator, owner, member,

officer, director, associate, partner, or any other person with management or control of a licensee as follows:

“(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

“(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.”

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1717.3 states, in pertinent part:

“(a) No person shall dispense a controlled substance pursuant to a preprinted multiple check-off prescription blank.”

18. California Code of Regulations, title 16, section 1761 states, in pertinent part:

“(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.”

19. California Code of Regulations, title 16, section 1773, states, in part:

"(a) Unless otherwise directed by the Board in its sole discretion, any pharmacist who is serving a period of probation shall comply with the following conditions:

"(1) Obey all laws and regulations substantially related to the practice of Pharmacy;

"(2) Report to the Board or its designee quarterly either in person or in writing as directed; the report shall include the name and address of the probationer's employer. If the final probation report is not made as directed, the period of probation shall be extended until such time as the final report is made;"

. . . .

20. California Code of Regulations, title 16, section 1774, subdivision (a)(2) states, in pertinent part:

“(a) (2) Unless otherwise directed by the Board, any pharmacy permit which is on probation to the Board shall be subject to the following conditions: The permit, through its

1 officer, partners or owners, shall report to the Board or its designees quarterly, either in person or
2 in writing as directed; if the final probation report is not made as directed, the period of probation
3 shall be extended until such time as the final report is made.”

4 **COST RECOVERY**

5 21. Section 125.3 provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
9 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
10 included in a stipulated settlement.

11 **THIRD AMENDED ACCUSATION**

12 **BOARD INVESTIGATION REPORT DATED AUGUST 9, 2017**

13
14
15 22. A Board investigation conducted in regard to Respondent Rx Unlimited Pharmacy
16 revealed that between December 26, 2013 and July 29, 2016, Rx Unlimited Pharmacy located at
17 16673 Roscoe Boulevard, North Hills, CA 91343, unlawfully shipped/mailed approximately 453
18 prescriptions involving dangerous drugs and/or dangerous devices into 27 states other than
19 California where they were not licensed to do so. Further, many of these dangerous drugs were
20 sterile compounds, which carry a higher risk of infectious contamination. These violations of law
21 were documented in a Board Investigation Report dated August 9, 2017.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct)**

24 23. Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein are subject to
25 disciplinary action under section 4301, subdivision (f) in that Rx Unlimited, Braddy and
26 Goldstein committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. The
27 circumstances are as follows:

28 ///

24. Between December 26, 2013 and July 29, 2016, Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein unlawfully shipped/mailed approximately 453 prescriptions involving dangerous drugs and/or dangerous devices into 27 states other than California where they were not licensed to do so. Further, many of these dangerous drugs were sterile compounds, which carry a higher risk of infectious contamination.

SECOND CAUSE FOR DISCIPLINE

(Compliance with Laws of All Involved Jurisdictions)

25. Respondents Rx Unlimited, Braddy, and Goldstein are subject to disciplinary action under section 4059.5, subdivision (e) in conjunction with section 4301, subdivision (j), in that Respondents Rx Unlimited Pharmacy, Braddy, and Goldstein failed to comply with the laws of this state and federal laws by unlawfully shipping/mailing prescriptions involving dangerous drugs or dangerous devices into 27 states other than California where they were not licensed to do so, as set forth in paragraphs 22-24 above.

BOARD INVESTIGATION REPORT OF MARCH 6, 2019

26. A follow up inspection conducted in regard to Respondent Rx Unlimited Pharmacy by Board Inspectors was initiated on or about October 16, 2018, wherein additional violations of law were uncovered. The underlying facts and related violations documented by a Board Inspector in a Board Inspection Report dated March 6, 2019 is summarized as follows.

27. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were not issued on a prescription form for controlled substances as required in the State of California.

28. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were written on prescription paper with preprinted multiple check-off boxes for controlled substances.

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1 29. Between December 14, 2015 and December 17, 2015, Respondent Averbukh, while
2 employed at Rx Unlimited Pharmacy, unlawfully processed and dispensed 41 prescriptions, 18 of
3 which were controlled substances, which were erroneous for the following reasons:

- 4 • Controlled substances were not written on required California Prescription Pads.
- 5 • Controlled substances were written on preprinted scripts with check-off boxes.
- 6 • Rx 125537, 125535 & 125534 were dated by the prescriber as being written on
7 10/5/2015, then 10/28/2015, then 11/10/2015; Rx# 125731 was dated by the
8 prescriber as being written on 10/5/2015, then 10/28/2015, then 11/10/2015. Rx
9 125546, 125547 and 12551 were dated by the prescriber as being written on
10 10/28/2015, then 11/10/2015. Rx 125514, 125555 and 125556 were dated by the
11 prescriber as being written on 10/28/2015, then 11/10/2015. Rx 125811, 125812
12 and 125813 were dated by the prescriber as being written on 10/28/2015, then
13 11/10/2015. Rx 125762 and 125763 were dated by the prescriber as being written
14 on 10/28/2015, then 11/10/2015. Rx 125743, 125744 and 125745 were dated by
15 the prescriber as being written on 10/28/2015, then 11/10/2015.
- 16 • There is no evidence (fax header or telephone notations) as to how these
17 prescriptions above were received at Respondent Rx Unlimited, as they were
18 written on a "Boulevard Pharmacy" Form.

19 30. Respondent Averbukh, while employed as pharmacist in charge at Respondent Rx
20 Unlimited Pharmacy, signed under penalty of perjury, a Community Pharmacy and Hospital
21 Outpatient Pharmacy Compounding Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In
22 each self-assessment, Respondent Averbukh failed to list pharmacist B.F. as required, despite the
23 fact that pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited
24 Pharmacy from December 2015 through April 2018, as confirmed by statements obtained by
25 Board Inspectors from current and previous employees of Respondent Rx Unlimited Pharmacy.

26 31. Respondent Goldstein, as owner of Respondent Rx Unlimited Pharmacy, also signed
27 under penalty of perjury, a Community Pharmacy and Hospital Outpatient Pharmacy
28 Compounding Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In each self-assessment,

Respondent Goldstein failed to list pharmacist B.F. as required, despite the fact that pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited Pharmacy from December 2015 through April 2018, as confirmed by statements obtained by Board Inspectors from current and previous employees of Respondent Rx Unlimited Pharmacy.

THIRD CAUSE FOR DISCIPLINE

(Prescription Forms for Controlled Substances Requirements)

32. Respondents Rx Unlimited Pharmacy and Averbukh are subject to disciplinary action under Health and Safety Code section 11162.1, subdivision (a) (1-13), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were not issued on a prescription form for controlled substances as required in the State of California, as set forth in paragraphs 26-31 above.

FOURTH CAUSE FOR DISCIPLINE

(Preprinted Multiple Checkoff Prescription Blanks)

33. Respondents Rx Unlimited Pharmacy and Averbukh are subject to disciplinary action under California Code of Regulations, title 16, section 1717.3, subdivision (a), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Respondent Rx Unlimited Pharmacy, unlawfully processed and dispensed 50 prescriptions for controlled substances that were written on prescription paper with preprinted multiple check-off boxes for controlled substances, as set forth in paragraphs 26-31 above.

FIFTH CAUSE FOR DISCIPLINE

(Erroneous or Uncertain Prescriptions)

34. Respondent Averbukh is subject to disciplinary action under Code section 4301, subdivision (a), in that between December 14, 2015 and December 17, 2015, Respondent Averbukh, while employed at Rx Unlimited Pharmacy, unlawfully processed and dispensed 41 erroneous prescriptions, 18 of which were controlled substances, as set forth in paragraphs 26-31 above.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Knowingly Signing Document That Falsely Represents Facts)**

3 35. Respondents Averbukh and Goldstein are subject to disciplinary action under Code
4 section 4301, subdivision (g), in that Respondents Averbukh and Goldstein each signed under
5 penalty of perjury, a Community Pharmacy and Hospital Outpatient Pharmacy Compounding
6 Self-Assessment on 4/10/2017, 7/5/2017, and 10/5/2017. In each self-assessment, Respondents
7 Averbukh and Goldstein both failed to list pharmacist B.F. as required, despite the fact that
8 pharmacist B.F. is known to have worked regularly at Respondent Rx Unlimited Pharmacy from
9 December 2015 through April 2018, as confirmed by statements obtained by Board Inspectors
10 from current and previous employees of Respondent Rx Unlimited Pharmacy, as set forth in
11 paragraphs 26-31 above.

12
13 **PETITION TO REVOKE PROBATION**

14
15 **FIRST CAUSE TO REVOKE PROBATION**

16 **(Failure to Obey All Laws)**

17 36. At all times after the effective date of the Order and Decision in Case No. 4567, In
18 the Matter of the Accusation Against Rx Unlimited, LLC; Rx Unlimited Pharmacy, Probation
19 Term and Condition Number 1 of Case No. 4567 stated in pertinent part:

20 **“1. Obey All Laws**

21 **“Respondent’s owner shall obey all state and federal laws and regulations. . . “**

22 37. Respondent Rx Unlimited Pharmacy’s probation is subject to revocation pursuant to
23 California Code of Regulations, title 16, sections 1773 and 1774, subdivision (a)(1), because it
24 failed to comply with Probation Condition 1, referenced above, in that it violated California
25 pharmacy laws, statutes and regulations, as set forth above in paragraphs 22-35 above, which are
26 incorporated by this reference as though set forth fully herein.

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41. Respondent Braddy's probation is subject to revocation pursuant to California Code of Regulations, title 16, sections 1773 and 1774, subdivision (a)(1), because he failed to comply with Probation Condition 1, referenced above, in that he violated California pharmacy laws, statutes and regulations, as set forth above in paragraphs 22-35 above, which are incorporated by this reference as though set forth fully herein.

DISCIPLINE CONSIDERATIONS

42. To determine the degree of discipline, if any, to be imposed on Respondent Rx Unlimited Pharmacy, in a disciplinary action entitled "In the Matter of the Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which Respondent Rx Unlimited Pharmacy's Pharmacy Permit was revoked. However, the revocation was stayed, and Respondent Rx Unlimited Pharmacy's Pharmacy Permit was placed on probation for five (5) years, with certain terms and conditions.

43. To determine the degree of discipline, if any, to be imposed on Respondent Braddy, Complainant alleges that in a disciplinary action entitled "In the Matter of the Accusation Against Rx Unlimited Pharmacy LLC; Rx Unlimited Pharmacy; and Clifton Eugene Braddy," Case No. 4567, the Board of Pharmacy issued a Decision and Order effective on March 13, 2017, in which Respondent Braddy's Pharmacist License was revoked. However, the revocation was stayed, and Respondent Braddy's Pharmacist License was placed on probation for five (5) years, with certain terms and conditions.

OTHER MATTERS

44. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member, Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, and Paul Ray Goldstein, member, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is revoked.

1 45. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
2 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Clifton Eugene
3 Braddy was serving as a manager, administrator, owner, member, officer, director, associate,
4 partner, or in any other position with management or control, and had knowledge of or
5 knowingly participated in any conduct for which the licensee was disciplined, Clifton Eugene
6 Braddy shall be prohibited from serving as a manager, administrator, owner, member, officer,
7 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY
8 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is
9 revoked, or until surrendered Pharmacist License Number RPH 45546 is reinstated if it is
10 revoked.

11 46. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
12 PHY 50302 issued to Rx Unlimited, LLC dba Rx Unlimited Pharmacy while Stephanie Sophia
13 Averbukh was serving as a manager, administrator, owner, member, officer, director, associate,
14 partner, or in any other position with management or control, and had knowledge of or
15 knowingly participated in any conduct for which the licensee was disciplined, Stephanie Sophia
16 Averbukh shall be prohibited from serving as a manager, administrator, owner, member, officer,
17 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY
18 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if it is
19 revoked.

20 47. Pursuant to Code section 4307, if discipline is imposed on surrendered Pharmacist
21 License Number RPH 45546 issued to Clifton Eugene Braddy, Clifton Eugene Braddy shall be
22 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
23 or partner of a licensee until surrendered Pharmacist License Number RPH 45546 is ever
24 reinstated if it is revoked.

25 48. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
26 Number RPH 67571 issued to Stephanie Sophia Averbukh, Stephanie Sophia Averbukh shall be
27 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
28

1 or partner of a licensee for five years if Pharmacist License Number RPH 67571 is placed on
2 probation or until Pharmacist License Number RPH 67571 is reinstated if it is revoked.

3 **PRAYER**

4 *WHEREFORE*, Complainant requests that a hearing be held on the matters alleged in this
5 Third Amended Accusation and Petition to Revoke Probation, and that following the hearing, the
6 Board of Pharmacy issue a decision:

7 1. Revoking or suspending Pharmacy Permit No. PHY 50302, issued to Rx Unlimited,
8 LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein,
9 member;

10 2. Revoking or suspending Sterile Compounding Permit No. LSC 99642, issued to Rx
11 Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray
12 Goldstein, member

13 3. Revoking surrendered Registered Pharmacist License No. RPH 45546, issued to
14 Clifton Eugene Braddy;

15 4. Revoking or suspending Pharmacy Technician Registration No. TCH 101671, issued
16 to Brian Paul Sohan Goldstein;

17 5. Revoking or suspending Registered Pharmacist License No. RPH 67571, issued to
18 Stephanie Sophia Averbukh;

19 6. Prohibiting Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan
20 Goldstein, member, Paul Ray Goldstein, member, from serving as a manager, administrator,
21 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
22 Permit Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302
23 is reinstated if Pharmacy Permit Number PHY 50302 issued to Rx Unlimited, LLC dba Rx
24 Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member;

25 7. Prohibiting Clifton Eugene Braddy from serving as a manager, administrator, owner,
26 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
27 Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is
28 reinstated if Pharmacy Permit Number PHY 50302 issued Rx Unlimited, LLC dba Rx Unlimited

Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member is revoked, or until surrendered Pharmacist License Number RPH 45546 is ever reinstated if it is revoked.

8. Prohibiting Stephanie Sophia Averbukh from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50302 is placed on probation or until Pharmacy Permit Number PHY 50302 is reinstated if Pharmacy Permit Number PHY 50302 issued Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Brian Paul Sohan Goldstein, member, Paul Ray Goldstein, member is revoked;

9. Prohibiting Clifton Eugene Braddy from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee until surrendered Pharmacist License Number RPH 45546 is reinstated if surrendered Pharmacist License Number RPH 45546 issued to Clifton Eugene Braddy is revoked;

10. Prohibiting Stephanie Sophia Averbukh from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 67571 is placed on probation or until Pharmacist License Number RPH 45546 is reinstated if Pharmacist License Number RPH 67571 issued to Stephanie Sophia Averbukh is revoked;

11. Ordering Rx Unlimited, LLC dba Rx Unlimited Pharmacy, Clifton Eugene Braddy, Brian Paul Sohan Goldstein, and Stephanie Sophia Averbukh to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

12. Taking such other and further action as deemed necessary and proper.

DATED: February 4, 2020



ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

EXHIBIT "A"

Decision and Order in Accusation Case No. 4567 (Respondent Rx Unlimited)

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED LLC
RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.
North Hills, CA 91343

Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642

and

CLIFTON EUGENE BRADY
18333 Hatteras St. #110
Tarzana, CA 91356

Pharmacist License No. RPH 45546

Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO RX
UNLIMITED, LLC DBA RX
UNLIMITED PHARMACY ONLY**

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 13, 2017.

It is so ORDERED on February 10, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 **RX UNLIMITED LLC**
RX UNLIMITED PHARMACY
12 16673 Roscoe Blvd.,
North Hills, CA 91343
13
14 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642
15 and
16 **CLIFTON EUGENE BRADY**
17 18333 Hatteras St. #110
Tarzana, CA 91356
18 Pharmacist License No. RPH 45546
19
20 Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO RX
UNLIMITED, LLC DBA RX
UNLIMITED PHARMACY ONLY**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
28 General.

2. Respondent RX Unlimited, LLC dba RX Unlimited Pharmacy is represented in this proceeding by attorney Tony J. Park, whose address is: 2855 Michelle, Ste. 180, Irvine, CA 92606.

3. On or about June 28, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50302 to RX Unlimited LLC, dba RX Unlimited Pharmacy with the address of record 16673 Roscoe Blvd., North Hills, California 91343. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2017, unless renewed.

4. On or about September 28, 2010, the Board of Pharmacy issued Sterile Compounding Permit No. LSC 99642 to RX Unlimited, LLC dba RX Unlimited Pharmacy. The Sterile Compounding Permit was in full force and effect at all times relevant to the charges brought in the Second Amended Accusation No. 4567 and will expire on June 1, 2017, unless renewed.

JURISDICTION

5. The Accusation, First Amended Accusation, and Second Amended Accusation No. 4567 were filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and the Second Amended Accusation is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on May 4, 2015. Respondent timely filed its Notice of Defense contesting the Second Amended Accusation.

6. A copy of the Second Amended Accusation No. 4567 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in the Second Amended Accusation No. 4567. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondents are fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to be

1 represented by counsel at its own expense; the right to confront and cross-examine the witnesses
2 against them; the right to present evidence and to testify on its own behalf; the right to the
3 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
4 the right to reconsideration and court review of an adverse decision; and all other rights accorded
5 by the California Administrative Procedure Act and other applicable laws.

6 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
7 every right set forth above.

8 CULPABILITY

9 10. Respondents understand and agree that the charges and allegations in Accusation No.
10 4567, if proven at a hearing, constitute cause for imposing discipline upon Respondents'
11 pharmacy and sterile compounding licenses.

12 11. For the purpose of resolving the Accusation without the expense and uncertainty of
13 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
14 basis for the charges in the Accusation, and that Respondents hereby give up their right to contest
15 those charges.

16 12. Respondents agree that their pharmacy and sterile compounding licenses are subject
17 to discipline and agree to be bound by the Board's probationary terms as set forth in the
18 Disciplinary Order below.

19 CONTINGENCY

20 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
21 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
22 communicate directly with the Board regarding this stipulation and settlement, without notice to
23 or participation by Respondents or its counsel. By signing the stipulation, Respondents
24 understand and agree that they may not withdraw its agreement or seek to rescind the stipulation
25 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
26 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
27 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
28 and the Board shall not be disqualified from further action by having considered this matter.

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
3 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

4 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
9 writing executed by an authorized representative of each of the parties.

10 16. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Board may, without further notice or formal proceeding, issue and enter the following
12 Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Original Pharmacy Permit Number PHY 50302 and Sterile
15 Compounding Permit No. LSC 99642 issued to Respondent RX Unlimited, LLC dba RX
16 Unlimited Pharmacy ("Respondents") are revoked. However, the revocation is stayed and
17 Respondents are placed on probation for five (5) years on the following terms and conditions.

18 **1. Obey All Laws**

19 Respondents' owner shall obey all state and federal laws and regulations.

20 Respondents' owner shall report any of the following occurrences to the board, in writing,
21 within seventy-two (72) hours of such occurrence:

- 22 • an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
- 25 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
- 27 • a conviction of any crime
- 28 • discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's original pharmacy permit and sterile compounding
2 license or which is related to the practice of pharmacy or the manufacturing,
3 obtaining, handling or distributing, billing, or charging for any drug, device or
4 controlled substance.

5 Failure to timely report any such occurrence shall be considered a violation of probation.

6 **2. Report to the Board**

7 Respondents' owner shall report to the board quarterly, on a schedule as directed by the
8 board or its designee. The report shall be made either in person or in writing, as directed. Among
9 other requirements, respondents' owner shall state in each report under penalty of perjury whether
10 there has been compliance with all the terms and conditions of probation. Failure to submit
11 timely reports in a form as directed shall be considered a violation of probation. Any period(s) of
12 delinquency in submission of reports as directed may be added to the total period of probation.
13 Moreover, if the final probation report is not made as directed, probation shall be automatically
14 extended until such time as the final report is made and accepted by the board.

15 **3. Interview with the Board**

16 Upon receipt of reasonable prior notice, respondents' owner shall appear in person for
17 interviews with the board or its designee, at such intervals and locations as are determined by the
18 board or its designee. Failure to appear for any scheduled interview without prior notification to
19 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its
20 designee during the period of probation, shall be considered a violation of probation.

21 **4. Cooperate with Board Staff**

22 Respondents' owner shall cooperate with the board's inspection program and with the
23 board's monitoring and investigation of respondents' compliance with the terms and conditions of
24 their probation. Failure to cooperate shall be considered a violation of probation.

25 **5. Reimbursement of Board Costs**

26 As a condition precedent to successful completion of probation, respondents' owner shall
27 pay to the board its costs of investigation and prosecution in the amount of \$11,584.00.

28 Respondents shall make said payments on a payment plan approved by the Board. There shall be

no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondents' owner shall not relieve respondents of their responsibility to reimburse the board its costs of investigation and prosecution.

6. Probation Monitoring Costs

Respondents' owner shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

7. Status of License

Respondents' owner shall, at all times while on probation, maintain current licensure with the board. If respondents' owner submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondents' shall remain on probation as determined by the board. Failure to maintain current licensure shall be considered a violation of probation.

If respondents' owner's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof or otherwise, upon renewal or reapplication respondents' owner's license shall be subject to all terms and conditions of this probation not previously satisfied.

8. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondents' owner discontinue business, respondents' owner may tender the premises license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondents will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondents' owner shall relinquish the premises wall and renewal license to the board within ten (10) days of notification by the board that the

1 surrender is accepted. Respondents' owner shall further submit a completed Discontinuance of
2 Business form according to board guidelines and shall notify the board of the records inventory
3 transfer.

4 Respondents' owner shall also, by the effective date of this decision, arrange for the
5 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
6 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
7 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
8 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
9 days of its provision to the pharmacy's ongoing patients, Respondents' owner shall provide a
10 copy of the written notice to the board. For the purposes of this provision, "ongoing patients"
11 means those patients for whom the pharmacy has on file a prescription with one or more refills
12 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
13 days.

14 Respondents' owner may not apply for any new licensure from the board for three (3) years
15 from the effective date of the surrender. Respondents' owner shall meet all requirements
16 applicable to the license sought as of the date the application for that license is submitted to the
17 board.

18 Respondents' owner further stipulates that he or she shall reimburse the board for its costs
19 of investigation and prosecution prior to the acceptance of the surrender.

20 **9. Notice to Employees**

21 Respondents' owner shall, upon or before the effective date of this decision, ensure that all
22 employees involved in permit operations are made aware of all the terms and conditions of
23 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
24 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
25 remain posted throughout the probation period. Respondents' owner shall ensure that any
26 employees hired or used after the effective date of this decision are made aware of the terms and
27 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
28 respondents' owner shall submit written notification to the board, within fifteen (15) days of the

1 effective date of this decision, that this term has been satisfied. Failure to submit such
2 notification to the board shall be considered a violation of probation.

3 "Employees" as used in this provision includes all full-time, part-time,
4 volunteer, temporary and relief employees and independent contractors employed or
5 hired at any time during probation.

6 **10. Owners and Officers: Knowledge of the Law**

7 Respondents shall provide, within thirty (30) days after the effective date of this decision,
8 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
9 or more of the interest in respondents or respondents' stock, and any officer, stating under penalty
10 of perjury that said individuals have read and are familiar with state and federal laws and
11 regulations governing the practice of pharmacy. The failure to timely provide said statements
12 under penalty of perjury shall be considered a violation of probation.

13 **11. Posted Notice of Probation**

14 Respondents' owner shall prominently post a probation notice provided by the board in a
15 place conspicuous and readable to the public. The probation notice shall remain posted during
16 the entire period of probation.

17 Respondents' owner shall not, directly or indirectly, engage in any conduct or make any
18 statement which is intended to mislead or is likely to have the effect of misleading any patient,
19 customer, member of the public, or other person(s) as to the nature of and reason for the probation
20 of the licensed entity.

21 Failure to post such notice shall be considered a violation of probation.

22 **12. Violation of Probation**

23 If a respondents' owner has not complied with any term or condition of probation, the board
24 shall have continuing jurisdiction over respondents' licenses, and probation shall be automatically
25 extended until all terms and conditions have been satisfied or the board has taken other action as
26 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
27 probation, and to impose the penalty that was stayed.

28 ///

1 If respondents' owner violates probation in any respect, the board, after giving respondents'
2 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
3 order that was stayed. Notice and opportunity to be heard are not required for those provisions
4 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of
5 the license. If a petition to revoke probation or an accusation is filed against respondents during
6 probation, the board shall have continuing jurisdiction and the period of probation shall be
7 automatically extended until the petition to revoke probation or accusation is heard and decided,
8 and all charges and allegations in Accusation No. 4567 shall be deemed true and correct.

9 **13. Completion of Probation**

10 Upon written notice by the board or its designee indicating successful completion of
11 probation, respondents' licenses will be fully restored.

12 **14. Suspension**

13 Original Pharmacy Permit Number PHY 50302 and Sterile Compounding Permit No. LSC
14 99642 issued to Respondents are suspended, beginning with the effective date of this decision,
15 until the time in which forty (40) hours of in-person remedial education in sterile compounding
16 are completed by Brian Goldstein, Eugene Braddy, Naomi Parvizi and any other licensed
17 employees of the Respondents. The in-person training may be completed prior to the execution
18 of this stipulation, and Complainant shall render full credit for all satisfactory completion of this
19 requirement that is successfully fulfilled before the effective date of its decision.

20 Respondents shall cease all pharmacy operations during the period of suspension. Failure
21 to comply with this suspension shall be considered a violation of probation.

22 **15. Accreditation by PCAP and NABP**

23 During the period of probation Respondents shall obtain semi-annual accreditation by the
24 Pharmacy Compounding Accreditation Board (PCAB) and annual accreditation by the National
25 Association of Boards of Pharmacy (NABP).

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DATED: 12-12-16

DATED: 12/16/2016

Dated: 12/19/10

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO RX UNLIMITED, LLC DBA RX UNLIMITED
PHARMACY ONLY (4567)

Exhibit A

Second Amended Accusation No. 4567

1 KAMALA D. HARRIS
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2 ARMANDO ZAMBRANO
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4567

12 **RX UNLIMITED LLC**
13 **RX UNLIMITED PHARMACY**
6815 Noble Ave. Ste. 107
14 Van Nuys, CA 91405

SECOND AMENDED ACCUSATION

15 Pharmacy Permit No. PHY 50302
16 Sterile Compounding Permit No. LSC 99642

17 and

18 **Clifton Eugene Braddy**
18333 Hatteras St. #110
19 Tarzana, CA 91356

20 Pharmacist License No. RPH 45546

21 Respondents.
22
23

24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in
27 her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

2. On or about August 14, 1992, the Board issued Pharmacist License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on April 30, 2016, unless renewed.

3. On or about June 28, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50302 to RX Unlimited LLC, dba RX Unlimited Pharmacy with the address of record of 6815 Noble Ave., Ste. 107, Van Nuys, California 91405 (Respondent RX Unlimited). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

4. On or about September 28, 2010, the Board issued Sterile Compounding Permit Number LSC 99642 to RX Unlimited LLC, dba RX Unlimited Pharmacy to compound injectable sterile drug products. The Sterile Compounding Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

JURISDICTION

5. This Second Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 118, subdivision (b), provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

7. Section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board, whose default
2 has been entered or whose case has been heard by the board and found guilty, by any of the
3 following methods:

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

6 (3) Suspending his or her right to practice for a period not exceeding one year.

7 (4) Revoking his or her license.

8 (5) Taking any other action in relation to disciplining him or her as the board in its
9 discretion may deem proper."

10 8. Section 4169 states, in pertinent part:

11 "(a) A person or entity may not do any of the following:

12 ...

13 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
14 should have known were misbranded, as defined in Section 111335 of the Health and Safety
15 Code."

16 9. Section 4342 states, in pertinent part:

17 "(a) The board may institute any action or actions as may be provided by law and that, in
18 its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do
19 not conform to the standard and tests as to quality and strength, provided in the latest edition of
20 the United States Pharmacopoeia or the National Formulary, or that violate any provision of the
21 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
22 104 of the Health and Safety Code)."

23 REGULATORY PROVISIONS

24 10. California Code of Regulations, title 16, section 1735.3 states:

25 "(a) For each compounded drug product, the pharmacy records shall include:

26 ...

27 (6) The manufacturer, expiration date and lot number of each component. If the
28 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted,

1 Exempt from the requirements in this paragraph are sterile products compounded on a one-time
2 basis for administration within seventy-two (72) hours and stored in accordance with standards
3 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National
4 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,
5 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

6 11. California Code of Regulations, title 16, section 1751.7, subdivision (c) states in
7 pertinent part that batch-produced sterile injectable drug products compounded from one or more
8 non-sterile ingredients shall be subject to documented end product testing for sterility and
9 pyrogens and shall be quarantined until the end product testing confirms sterility and acceptable
10 levels of pyrogens.

11 12. California Code of Regulations, title 16, section 1735.2 subdivisions (c) and (h)
12 state as follows:

13 "..."

14 "(c) Pursuant to Business and Professions Code section 4052 (a)(1), a "reasonable
15 quantity" of compounded drug product may be furnished to a prescriber for office use upon
16 prescriber order, where "reasonable quantity" is that amount of compounded drug product that:

17 (1) is sufficient for administration or application to patients in the prescriber's
18 office, or for distribution of not more than a 72-hour supply to the prescriber's patients, as
19 estimated by the prescriber; and

20 (2) is reasonable considering the intended use of the compounded medication and
21 the nature of the prescriber's practice; and

22 (3) for any individual prescriber and for all prescribers taken as a whole, is an
23 amount which the pharmacy is capable of compounding in compliance with
24 pharmaceutical standards for integrity, potency, quality and strength of the compounded
25 drug product."

26 "..."

27 "(h) Every compounded drug product shall be given an expiration date representing the
28 date beyond which, in the professional judgment of the pharmacist performing or supervising the

1 compounding, it should not be used. This "beyond use date" of the compounded drug product
2 shall not exceed 180 days from preparation or the shortest expiration date of any component in
3 the compounded drug product, unless a longer date is supported by stability studies of finished
4 drugs or compounded drug products using the same components and packaging. Shorter dating
5 than set forth in this subsection may be used if it is deemed appropriate in the professional
6 judgment of the responsible pharmacist."

7 "...."

8 COST RECOVERY

9 13. Section 125.3 states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 DRUG DEFINITIONS

14 14. Tri-Mix, is a sterile injectable compound comprised of three different ingredients:
15 alprostadil, phentolamine, and papaverine. All three of the products are dangerous drugs pursuant
16 to Business and Professions Code Section 4022 (c).
17

18 15. Nandrolone Decanoate 200mg/ml injection, brand name "Androlone", is used to
19 treat anemia in patients with kidney failure, is classified as a Schedule III controlled substance
20 under the Anabolic Steroids Control Act of 1990 as designated by Health and Safety Code section
21 11056 and is categorized as a dangerous drug pursuant to Business and Professions Code section
22 4022.

23 16. Hydroxyprogesterone Caproate, brand name "Makena", is a synthetic, steroidal
24 progestin that is used in pregnancy to prevent preterm labor in women, and is categorized as a
25 dangerous drug pursuant to Business and Professions Code section 4022.
26

27 ///

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1 FACTUAL BACKGROUND

2 I. May 15, 2012 Inspection

3 17. On or about May 15, 2012, the Board conducted an annual licensed sterile
4 compounding inspection (LSC Inspection) at Respondent RX Unlimited, located at 6815 Noble
5 Ave. #107, Van Nuys, CA 91404.

6 18. During the LSC Inspection, the Board inspector reviewed RX Unlimited's end-
7 product test results to determine sterility of compounded products.

8 19. Respondent Braddy stated that RX Unlimited did not conduct in-house testing of
9 the finalized products for sterility, but rather sent the products out to Eagle Analytical Services
10 (Eagle) for testing.

11 20. The Board inspector learned that for some of the compounded product results,
12 sterility and potency testing were completed but not pyrogen testing¹.

13 21. RX Unlimited Pharmacy Technician B.G.² informed the Board inspector that
14 Respondents conducted in house pyrogen testing. Respondents failed to produce documentation
15 of the pyrogen testing results upon request.

16 22. The Board inspector subsequently learned that RX Unlimited possessed pyrogen
17 test kits, but never used any of them.

18 23. While reviewing Eagle's testing reports, the Board inspector also observed that the
19 potency results of multiple compounds were outside of the normal range.

20 24. Respondent Braddy stated that the products outside of normal range were not
21 dispensed to consumers.
22
23

24 ¹ A pyrogen is a protein that can induce a fever in a patient by triggering a series of immune reactions. The
25 guaranteed absence of pyrogens is a critical safety precaution for all drugs administered parenterally, since these
26 contaminants can pose a life-threatening risk of shock to the patient. Pyrogen testing defines a process used by drug
27 manufacturers to determine if bacterial toxins are present in vaccines and drugs that might cause fever when used on
humans. It determines if microbes or their metabolites are present in intravenous solutions during the manufacturing
process.

28 ² For potential witnesses and/or patients, initials are used in lieu of names in order to protect the privacy rights of
these individuals.

1 25. During the inspection, Respondents were unable to produce compounding
2 worksheets for all products identified by the Board inspector, however, Respondent Braddy
3 admitted that RX Unlimited did not test each and every batch of sterile products to make sure
4 they were sterile.

5 26. On or about September 14, 2012, the Board conducted a follow up inspection and
6 to obtain additional pharmacy records.

7 27. The inspector requested the dispensing reports of compounds identified during the
8 May 15, 2012 inspection which were found to have potency results outside acceptable potency
9 ranges for the compound.

10 28. A review of the compounding logs, laboratory testing results, and dispensing
11 reports for Tri-Mix (alprostadil-10mcg/papaverine-30mg/phentolamine-0.5mg) revealed
12 approximately 44 compounded prescriptions which were prepared as batch products from a non-
13 sterile source and found to be outside of expected potency ranges were dispensed to consumers.

14 29. The Board inspector also selected a sample of compounding logs for end-product
15 testing and requested the prescription dispensing history for those specific lots.

16 30. The records revealed that approximately 105 sterile injectable compounded
17 prescriptions prepared as batch products from a non-sterile source were dispensed to consumers
18 without first conducting end product sterility and pyrogen testing.

19 31. A sample of compounding worksheet records also revealed that Respondent failed
20 to document the manufacturer of each ingredient used to prepare approximately 15 compounds
21 for Tri-Mix, Nandrolone, Progesterone, Testosterone, Tri-Mix XL and Quad-Mix.

22 32. A written notice of non-compliance was given to Respondents Braddy and RX
23 Unlimited at the end of the inspection.

24 **II. February 13, 2013 Inspection**

25 33. On or about February 13, 2013, the Board conducted an inspection at Respondent
26 RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404 after a complaint was
27 made by T.Corp. alleging that Respondents continued to compound large quantities of
28

1 hydroxyprogesterone caproate (HPC) injection outside the scope of traditional pharmacy
2 compounding.

3 34. Respondent Clifton Braddy was not present during the inspection. Pharmacist
4 N.P. was present and provided the documents requested during the inspection. At the conclusion
5 of the inspection, Respondent Braddy was notified that he was required to supplement the
6 documents collected during the inspection within 14 days. After review of all documents
7 provided at the inspection site, as well as those provided thereafter by Respondents, the following
8 findings were made.

9 35. Respondents' sterile compounding worksheets were reviewed and revealed that the
10 Respondents were compounding nandrolone deconoate 200mg/ml injection with a beyond the use
11 date of 180 days despite the Master Formula's estimated 90 days beyond the use date.
12 Respondents were unable to provide stability studies that supported the 180 days beyond the use
13 date for the nandrolone deconoate 200mg/ml.

14 36. Respondents' compounding logs revealed that they were compounding and
15 dispensing HPC injections outside of the scope of traditional pharmacy compounding practices in
16 that the HPC injections were commercially available in the marketplace and there was no specific
17 need for said drug. The records revealed that a total of six (6) prescriptions were filled from
18 January 1, 2012 through February 13, 2013 as follows: RX No. 100897, dispensed June 19,
19 2012, RX No. 100898, dispensed June 19, 2012, RX No. 100907, dispensed June 21, 2012, RX
20 No. 100907, dispensed September 5, 2012, RX No. 101765, dispensed November 27, 2012, and
21 RX No. 101765, dispensed December 28, 2012.

22 FIRST CAUSE FOR DISCIPLINE

23 (Misbranded Drugs)

24 37. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
25 action under section 4169 subdivision (a)(3) in conjunction with section 4342 in that inspections
26 conducted on or about May 15, 2012, and September 13, 2012, revealed that Respondents
27 purchased, traded, sold or transferred dangerous drugs that Respondents knew or should have
28

1 reasonably known were misbranded, as defined in section 11135 of the Health and Safety Code.
2 Complainant incorporates by reference paragraphs 17 – 32, as if fully set forth herein.

3 SECOND CAUSE FOR DISCIPLINE

4 (Sterile Compounding – Quality Assurance)

5 38. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
6 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1751.7,
7 subdivision (c) in that an inspection conducted on September 14, 2012, revealed that Respondents
8 did not test for sterility and pyrogen for each sterile injectable batch product prepared from a non-
9 sterile source prior to dispensing the product. Complainant incorporates by reference paragraphs
10 17 – 32, as if fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Records of Compounding Drug Products)

13 39. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
14 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.3,
15 subdivision (a) (6) in that inspections conducted on or about May 15, 2012, and September 13,
16 2012, revealed that Respondents failed to identify the name of the manufacturer of each
17 ingredient of a compounded drug prior to dispensing the product. Complainant incorporates by
18 reference paragraphs 26 – 32, as if fully set forth herein.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Compounding Limitations and Requirements; Self Assessment)

21 40. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
22 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 Section 1735.2,
23 subdivision (h) in that the inspection on February 13, 2013, and the records thereafter provided,
24 revealed that Respondents had compounding worksheets for nandrolone deconoate 200/mg/ml
25 that showed a beyond the use date of 180 days despite a master formula estimated 90 days beyond
26 the use date. In addition, Respondents were unable to provide stability studies that supported the
27 beyond the use date of 180 days. Complainant incorporates by reference paragraphs 33 - 35, as if
28 fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Compounding Limitations)

3 41. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
4 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.2,
5 subdivision (c) in that the inspection on February 13, 2013, and the records thereafter provided,
6 revealed that Respondents were compounding and dispensing HPC injections in a form that is
7 essentially a copy of a product which is commercially available in the market place. Complainant
8 incorporates by reference paragraphs 33, 34 & 36, as if fully set forth herein.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

12 1. Revoking or suspending Pharmacist License Number RPH 45546 issued to Clifton
13 Eugene Braddy;

14 2. Revoking or suspending Sterile Compounding Permit Number LSC 99642 issued
15 to RX Unlimited LLC;

16 3. Revoking or suspending Pharmacy Permit Number PHY 50302, issued to RX
17 Unlimited LLC, dba RX Unlimited Pharmacy;

18 4. Ordering RX Unlimited LLC and Clifton Eugene Braddy, Pharmacist-in-Charge,
19 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3; and

21 5. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/3/15

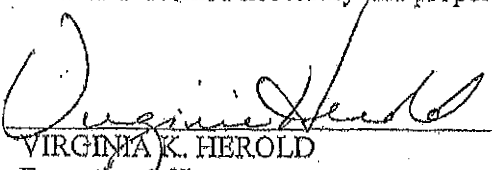

24 VIRGINIA K. HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

EXHIBIT "B"

Decision and Order in Accusation Case No. 4567 (Respondent Braddy)

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RX UNLIMITED LLC
RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.
North Hills, CA 91343

Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642

and

CLIFTON EUGENE BRADDY
18333 Hatteras St. #110
Tarzana, CA 91356

Pharmacist License No. RPH 45546

Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
CLIFTON EUGENE BRADDY ONLY**

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 13, 2017.

It is so ORDERED on February 10, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Second Accusation
11 Against:
RX UNLIMITED LLC
12 **RX UNLIMITED PHARMACY**
16673 Roscoe Blvd.,
13 North Hills, CA 91343
14 Pharmacy Permit No. PHY 50302
Sterile Compounding Permit No. LSC 99642
15
16 and
17 **CLIFTON EUGENE BRADDY**
18333 Hatteras St. #110
18 Tarzana, CA 91356
19 Pharmacist License No. RPH 45546
20 Respondents.

Case No. 4567

OAH No. 2014030526

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
CLIFTON EUGENE BRADDY ONLY**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 PARTIES

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
28 General.

2. Respondent RX Unlimited, LLC dba RX Unlimited Pharmacy is represented in this proceeding by attorney Tony J. Park, whose address is: 2855 Michelle, Ste. 180, Irvine, CA 92606.

3. On or about August 14, 1992, the Board of Pharmacy issued Pharmacist License No. RPH 45546 to Clifton Eugene Braddy (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in the Second Amended Accusation, No. 4567 and will expire on April 30, 2018, unless renewed.

JURISDICTION

4. The Accusation, First Amended Accusation and Second Amended Accusation No. 4567 were filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and the Second Amended Accusation is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on May 4, 2015. Respondent timely filed its Notice of Defense contesting the Second Amended Accusation.

5. A copy of the Second Amended Accusation No. 4567 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the Second Amended Accusation No. 4567. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 4567, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License No. RPH 45546.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Pharmacist License is subject to discipline and he to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. RPH 45546 issued to Respondent
9 Clifton Eugene Braddy (Respondent) is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for five (5) years on the following terms and conditions.

11 **1. Obey All Laws**

12 Respondent shall obey all state and federal laws and regulations.

13 Respondent shall report any of the following occurrences to the board, in writing, within
14 seventy-two (72) hours of such occurrence:

- 15 • an arrest or issuance of a criminal complaint for violation of any provision of the
16 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
17 substances laws
- 18 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
19 criminal complaint, information or indictment
- 20 • a conviction of any crime
- 21 • discipline, citation, or other administrative action filed by any state or federal agency
22 which involves respondent's pharmacist license or which is related to the practice of
23 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
24 for any drug, device or controlled substance.

25 Failure to timely report such occurrence shall be considered a violation of probation.

26 **2. Report to the Board**

27 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
28 designee. The report shall be made either in person or in writing, as directed. Among other

1 requirements, respondent shall state in each report under penalty of perjury whether there has
2 been compliance with all the terms and conditions of probation. Failure to submit timely reports
3 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
4 in submission of reports as directed may be added to the total period of probation. Moreover, if
5 the final probation report is not made as directed, probation shall be automatically extended until
6 such time as the final report is made and accepted by the board.

7 **3. Interview with the Board**

8 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
9 with the board or its designee, at such intervals and locations as are determined by the board or its
10 designee. Failure to appear for any scheduled interview without prior notification to board staff,
11 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
12 the period of probation, shall be considered a violation of probation.

13 **4. Cooperate with Board Staff**

14 Respondent shall cooperate with the board's inspection program and with the board's
15 monitoring and investigation of respondent's compliance with the terms and conditions of his
16 probation. Failure to cooperate shall be considered a violation of probation.

17 **5. Continuing Education**

18 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
19 pharmacist as directed by the board or its designee.

20 **6. Notice to Employers**

21 During the period of probation, respondent shall notify all present and prospective
22 employers of the decision in case number 4567 and the terms, conditions and restrictions imposed
23 on respondent by the decision, as follows:

24 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
25 respondent undertaking any new employment, respondent shall cause his direct supervisor,
26 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
27 tenure of employment) and owner to report to the board in writing acknowledging that the listed
28 individual(s) has/have read the decision in case number 4567, and terms and conditions imposed

1 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
2 submit timely acknowledgment(s) to the board.

3 If respondent works for or is employed by or through a pharmacy employment service,
4 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
5 licensed by the board of the terms and conditions of the decision in case number 4567 in advance
6 of the respondent commencing work at each licensed entity. A record of this notification must be
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of respondent undertaking any new employment by or through a pharmacy employment
10 service, respondent shall cause his direct supervisor with the pharmacy employment service to
11 report to the board in writing acknowledging that he has read the decision in case number 4567
12 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
13 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

14 Failure to timely notify present or prospective employer(s) or to cause that/those
15 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
16 probation.

17 "Employment" within the meaning of this provision shall include any full-time,
18 part-time, temporary, relief or pharmacy management service as a pharmacist or any
19 position for which a pharmacist license is a requirement or criterion for employment,
20 whether the respondent is an employee, independent contractor or volunteer.

21 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
22 **Designated Representative-in-Charge, or Serving as a Consultant**

23 During the period of probation, respondent shall not supervise any intern pharmacist, be the
24 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
25 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
26 unauthorized supervision responsibilities shall be considered a violation of probation.

27 ///

28 ///

1 **8. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, respondent shall pay to the
3 board its costs of investigation and prosecution in the amount of \$5,792.00. Respondent shall
4 make said payments on a payment plan approved by the Board.

5 There shall be no deviation from this schedule absent prior written approval by the board or
6 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
7 probation.

8 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
9 reimburse the board its costs of investigation and prosecution.

10 **9. Probation Monitoring Costs**

11 Respondent shall pay any costs associated with probation monitoring as determined by the
12 board each and every year of probation. Such costs shall be payable to the board on a schedule as
13 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
14 be considered a violation of probation.

15 **10. Status of License**

16 Respondent shall, at all times while on probation, maintain an active, current license with
17 the board, including any period during which suspension or probation is tolled. Failure to
18 maintain an active, current license shall be considered a violation of probation.

19 If respondent's license expires or is cancelled by operation of law or otherwise at any time
20 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
21 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
22 probation not previously satisfied.

23 **11. License Surrender While on Probation/Suspension**

24 Following the effective date of this decision, should respondent cease practice due to
25 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
26 respondent may tender his license to the board for surrender. The board or its designee shall have
27 the discretion whether to grant the request for surrender or take any other action it deems
28 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent

1 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
2 record of discipline and shall become a part of the respondent's license history with the board.

3 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
4 the board within ten (10) days of notification by the board that the surrender is accepted.

5 Respondent may not reapply for any license from the board for three (3) years from the effective
6 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
7 of the date the application for that license is submitted to the board, including any outstanding
8 costs.

9 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
10 **Employment**

11 Respondent shall notify the board in writing within ten (10) days of any change of
12 employment. Said notification shall include the reasons for leaving, the address of the new
13 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
14 shall further notify the board in writing within ten (10) days of a change in name, residence
15 address, mailing address, or phone number.

16 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
17 phone number(s) shall be considered a violation of probation.

18 **13. Tolling of Probation**

19 Except during periods of suspension, respondent shall, at all times while on probation, be
20 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
21 month during which this minimum is not met shall toll the period of probation, i.e., the period of
22 probation shall be extended by one month for each month during which this minimum is not met.
23 During any such period of tolling of probation, respondent must nonetheless comply with all
24 terms and conditions of probation.

25 Should respondent, regardless of residency, for any reason (including vacation) cease
26 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
27 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
28

1 must further notify the board in writing within ten (10) days of the resumption of practice. Any
2 failure to provide such notification(s) shall be considered a violation of probation.

3 It is a violation of probation for respondent's probation to remain tolled pursuant to the
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,
5 exceeding thirty-six (36) months.

6 "Cessation of practice" means any calendar month during which respondent is not
7 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code
8 section 4000 et seq. "Resumption of practice" means any calendar month during which
9 respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as defined by
10 Business and Professions Code section 4000 et seq."

11 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that
12 dispenses medication for a minimum of one year prior to the completion of probation. After the
13 first year of probation, the board or its designee may consider a modification of this requirement.
14 If respondent fails to comply with this requirement or a subsequent modification thereto, such
15 failure shall be considered a violation of probation.

16 14. Violation of Probation

17 If a respondent has not complied with any term or condition of probation, the board shall
18 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
19 all terms and conditions have been satisfied or the board has taken other action as deemed
20 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
21 to impose the penalty that was stayed.

22 If respondent violates probation in any respect, the board, after giving respondent notice
23 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
24 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
25 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
26 a petition to revoke probation or an accusation is filed against respondent during probation, the
27 board shall have continuing jurisdiction and the period of probation shall be automatically
28

1 extended until the petition to revoke probation or accusation is heard and decided, and charges
2 and allegations in Accusation No. 4567 shall be deemed true and correct.

3 **15. Completion of Probation**

4 Upon written notice by the board or its designee indicating successful completion of
5 probation, respondent's license will be fully restored.

6 **16. Suspension**

7 As part of probation, respondent is suspended from the practice of pharmacy up and until
8 forty (40) hours of in-person remedial education in sterile compounding is completed beginning
9 the effective date of this decision. The in-person training may be completed prior to the execution
10 of this stipulation, and Complainant shall render full credit for all satisfactory completion of this
11 requirement that is successfully fulfilled before the effective date of its decision.

12 During suspension, respondent shall not enter any pharmacy area or any portion of the
13 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
14 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
15 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
16 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
17 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
18 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
19 and devices or controlled substances.

20 Respondent shall not engage in any activity that requires the professional judgment of a
21 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
22 Respondent shall not perform the duties of a pharmacy technician or a designated representative
23 for any entity licensed by the board.

24 Subject to the above restrictions, respondent may continue to own or hold an interest in any
25 licensed premises in which he holds an interest at the time this decision becomes effective unless
26 otherwise specified in this order.

27 Failure to comply with this suspension shall be considered a violation of probation.
28

1 **17. Restricted Practice – No Sterile Compounding**

2 Respondent shall not prepare, oversee or participate in the preparation of sterile products at
3 any time in which he is licensed, regardless of whether he is on probation. Respondent
4 Pharmacist shall submit proof satisfactory to the board of compliance with this term of probation.
5 Failure to abide by this restriction or to timely submit proof to the board of compliance therewith
6 shall be considered a violation of probation.

7 **18. Remedial Education**

8 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
9 board or its designee, for prior approval, an appropriate program of remedial education related to
10 sterile compounding. The program of remedial education shall consist of at least forty (40) hours,
11 which shall be completed at respondent's own expense. All remedial education shall be in
12 addition to, and shall not be credited toward, continuing education (CE) courses used for license
13 renewal purposes.

14 Failure to timely submit or complete the approved remedial education shall be considered a
15 violation of probation. The period of probation will be automatically extended until such
16 remedial education is successfully completed and written proof, in a form acceptable to the board,
17 is provided to the board or its designee.

18 Following the completion of each course, the board or its designee may require the
19 respondent, at his own expense, to take an approved examination to test the respondent's
20 knowledge of the course. If the respondent does not achieve a passing score on the examination,
21 this failure shall be considered a violation of probation. Any such examination failure shall
22 require respondent to take another course approved by the board in the same subject area.

23 **19. No Ownership of Licensed Premises**

24 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
25 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
26 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
27 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
28 days following the effective date of this decision and shall immediately thereafter provide written

1 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
2 documentation thereof shall be considered a violation of probation.

3 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
4 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
5 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
6 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
7 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
8 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
9 that interest, but only to the extent of that position or interest as of the effective date of this
10 decision. Violation of this restriction shall be considered a violation of probation.

11 **20. Ethics Course**

12 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
13 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
14 Failure to initiate the course during the first year of probation, and complete it within the second
15 year of probation, is a violation of probation.

16 Respondent shall submit a certificate of completion to the board or its designee within five
17 days after completing the course.

18 **21. Supervised Practice**

19 During the period of probation, respondent shall practice only under the supervision of a
20 licensed pharmacist not on probation with the board. Upon and after the effective date of this
21 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
22 until a supervisor is approved by the board or its designee.

23 The supervision shall be, as required by the board or its designee, set as:

24 Daily Review - Supervisor's review of probationer's daily activities within 24 hours. "Daily
25 review" as this term is used herein shall not require that the supervising pharmacist be engaged in
26 physical supervision of respondent's activities in real time, but shall require that the supervising
27 pharmacist, by no later than close of business on each day following, review all transactions
28

1 performed by respondent and records associated with those transactions to ensure compliance
2 with state and federal statutes and regulations and with the requirements of this decision.

3 If respondent violates probation in any respect, the board or its designee shall have the power
4 to impose any of the following supervision restrictions:

5 Continuous - At least 75% of a work week

6 Substantial - At least 50% of a work week

7 Partial - At least 25% of a work week

8 Within thirty (30) days of the effective date of this decision, respondent shall have his
9 supervisor submit notification to the board in writing stating that the supervisor has read the
10 decision in case number 4567 and is familiar with the required level of supervision as determined
11 by the board or its designee. It shall be the respondent's responsibility to ensure that his
12 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
13 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
14 acknowledgements to the board shall be considered a violation of probation.

15 If respondent changes employment, it shall be the respondent's responsibility to ensure that
16 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
17 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
18 commences, submit notification to the board in writing stating the direct supervisor and
19 pharmacist-in-charge have read the decision in case number 4567, and is familiar with the level of
20 supervision as determined by the board. Respondent shall not practice pharmacy and his license
21 shall be automatically suspended until the board or its designee approves a new supervisor.
22 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
23 acknowledgements to the board shall be considered a violation of probation.

24 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

25 During suspension, respondent shall not enter any pharmacy area or any portion of the
26 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
27 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
28 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
3 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
4 and controlled substances. Respondent shall not resume practice until notified by the board.

5 During suspension, respondent shall not engage in any activity that requires the
6 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
7 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
8 designated representative for any entity licensed by the board.

9 Failure to comply with this suspension shall be considered a violation of probation.

10
11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Tony J. Park. I understand the stipulation and the effect it will
14 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
15 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
16 Board of Pharmacy.

17
18 DATED: 12/13/16

Clifton Eugene Braddy
CLIFTON EUGENE BRADDY
Respondent

20
21 I have read and fully discussed with Respondent Clifton Eugene Braddy the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve its form and content.

24
25 DATED: 12/16/2016

Tony J. Park
TONY J. PARK
Attorney for Respondent

ENDORSEMENT

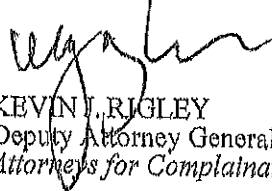
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated:

12/19/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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Brady.docx

Exhibit A

Second Amended Accusation No. 4567

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2 ARMANDO ZAMBRANO
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3 LESLIE A. WALDEN
Deputy Attorney General
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4567

12 **RX UNLIMITED LLC**
13 **RX UNLIMITED PHARMACY**
6815 Noble Ave. Ste. 107
14 Van Nuys, CA 91405

SECOND AMENDED ACCUSATION

15 Pharmacy Permit No. PHY 50302
16 Sterile Compounding Permit No. LSC 99642

17 and

18 **Clifton Eugene Braddy**
18333 Hatteras St. #110
19 Tarzana, CA 91356

20 Pharmacist License No. RPH 45546

21 Respondents,
22
23

24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in
27 her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

2. On or about August 14, 1992, the Board issued Pharmacist License Number RPH 45546 to Clifton Eugene Braddy (Respondent Braddy). The Pharmacist License was in full force and effect at all times relevant to the charges herein and will expire on April 30, 2016, unless renewed.

3. On or about June 28, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50302 to RX Unlimited LLC, dba RX Unlimited Pharmacy with the address of record of 6815 Noble Ave., Ste. 107, Van Nuys, California 91405 (Respondent RX Unlimited). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

4. On or about September 28, 2010, the Board issued Sterile Compounding Permit Number LSC 99642 to RX Unlimited LLC, dba RX Unlimited Pharmacy to compound injectable sterile drug products. The Sterile Compounding Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015, unless renewed.

JURISDICTION

5. This Second Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 118, subdivision (b), provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

7. Section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board, whose default
2 has been entered or whose case has been heard by the board and found guilty, by any of the
3 following methods:

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

6 (3) Suspending his or her right to practice for a period not exceeding one year.

7 (4) Revoking his or her license.

8 (5) Taking any other action in relation to disciplining him or her as the board in its
9 discretion may deem proper."

10 8. Section 4169 states, in pertinent part:

11 "(a) A person or entity may not do any of the following:

12 ...

13 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
14 should have known were misbranded, as defined in Section 111335 of the Health and Safety
15 Code."

16 9. Section 4342 states, in pertinent part:

17 "(a) The board may institute any action or actions as may be provided by law and that, in
18 its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do
19 not conform to the standard and tests as to quality and strength, provided in the latest edition of
20 the United States Pharmacopoeia or the National Formulary, or that violate any provision of the
21 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
22 104 of the Health and Safety Code)."

23 REGULATORY PROVISIONS

24 10. California Code of Regulations, title 16, section 1735.3 states:

25 "(a) For each compounded drug product, the pharmacy records shall include:

26 ...

27 (6) The manufacturer, expiration date and lot number of each component. If the
28 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted,

1 Exempt from the requirements in this paragraph are sterile products compounded on a one-time
2 basis for administration within seventy-two (72) hours and stored in accordance with standards
3 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National
4 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,
5 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

6 11. California Code of Regulations, title 16, section 1751.7, subdivision (c) states in
7 pertinent part that batch-produced sterile injectable drug products compounded from one or more
8 non-sterile ingredients shall be subject to documented end product testing for sterility and
9 pyrogens and shall be quarantined until the end product testing confirms sterility and acceptable
10 levels of pyrogens.

11 12. California Code of Regulations, title 16, section 1735.2 subdivisions (c) and (h)
12 state as follows:

13 "..."

14 "(c) Pursuant to Business and Professions Code section 4052 (a)(1), a "reasonable
15 quantity" of compounded drug product may be furnished to a prescriber for office use upon
16 prescriber order, where "reasonable quantity" is that amount of compounded drug product that:

17 (1) is sufficient for administration or application to patients in the prescriber's
18 office, or for distribution of not more than a 72-hour supply to the prescriber's patients, as
19 estimated by the prescriber; and

20 (2) is reasonable considering the intended use of the compounded medication and
21 the nature of the prescriber's practice; and

22 (3) for any individual prescriber and for all prescribers taken as a whole, is an
23 amount which the pharmacy is capable of compounding in compliance with
24 pharmaceutical standards for integrity, potency, quality and strength of the compounded
25 drug product."

26 "..."

27 "(h) Every compounded drug product shall be given an expiration date representing the
28 date beyond which, in the professional judgment of the pharmacist performing or supervising the

1 compounding, it should not be used. This "beyond use date" of the compounded drug product
2 shall not exceed 180 days from preparation or the shortest expiration date of any component in
3 the compounded drug product, unless a longer date is supported by stability studies of finished
4 drugs or compounded drug products using the same components and packaging. Shorter dating
5 than set forth in this subsection may be used if it is deemed appropriate in the professional
6 judgment of the responsible pharmacist."

7 "...."

8 COST RECOVERY

9 13. Section 125.3 states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 DRUG DEFINITIONS

14 14. Tri-Mix, is a sterile injectable compound comprised of three different ingredients:
15 alprostadil, phentolamine, and papaverine. All three of the products are dangerous drugs pursuant
16 to Business and Professions Code Section 4022 (c).
17

18 15. Nandrolone Decanoate 200mg/ml injection, brand name "Androlone", is used to
19 treat anemia in patients with kidney failure, is classified as a Schedule III controlled substance
20 under the Anabolic Steroids Control Act of 1990 as designated by Health and Safety Code section
21 11056 and is categorized as a dangerous drug pursuant to Business and Professions Code section
22 4022.

23 16. Hydroxyprogesterone Caproate, brand name "Makena", is a synthetic, steroidal
24 progestin that is used in pregnancy to prevent preterm labor in women, and is categorized as a
25 dangerous drug pursuant to Business and Professions Code section 4022.
26

27 ///

28 ///

1 FACTUAL BACKGROUND

2 I. May 15, 2012 Inspection

3 17. On or about May 15, 2012, the Board conducted an annual licensed sterile
4 compounding inspection (LSC Inspection) at Respondent RX Unlimited, located at 6815 Noble
5 Ave. #107, Van Nuys, CA 91404.

6 18. During the LSC Inspection, the Board inspector reviewed RX Unlimited's end-
7 product test results to determine sterility of compounded products.

8 19. Respondent Braddy stated that RX Unlimited did not conduct in-house testing of
9 the finalized products for sterility, but rather sent the products out to Eagle Analytical Services
10 (Eagle) for testing.

11 20. The Board inspector learned that for some of the compounded product results,
12 sterility and potency testing were completed but not pyrogen testing¹.

13 21. RX Unlimited Pharmacy Technician B.G.² informed the Board inspector that
14 Respondents conducted in house pyrogen testing. Respondents failed to produce documentation
15 of the pyrogen testing results upon request.

16 22. The Board inspector subsequently learned that RX Unlimited possessed pyrogen
17 test kits, but never used any of them.

18 23. While reviewing Eagle's testing reports, the Board inspector also observed that the
19 potency results of multiple compounds were outside of the normal range.

20 24. Respondent Braddy stated that the products outside of normal range were not
21 dispensed to consumers.
22
23

24 ¹ A pyrogen is a protein that can induce a fever in a patient by triggering a series of immune reactions. The
25 guaranteed absence of pyrogens is a critical safety precaution for all drugs administered parenterally, since these
26 contaminants can pose a life-threatening risk of shock to the patient. Pyrogen testing defines a process used by drug
27 manufacturers to determine if bacterial toxins are present in vaccines and drugs that might cause fever when used on
humans. It determines if microbes or their metabolites are present in intravenous solutions during the manufacturing
process.

28 ² For potential witnesses and/or patients, initials are used in lieu of names in order to protect the privacy rights of
these individuals.

1 25. During the inspection, Respondents were unable to produce compounding
2 worksheets for all products identified by the Board inspector, however, Respondent Braddy
3 admitted that RX Unlimited did not test each and every batch of sterile products to make sure
4 they were sterile.

5 26. On or about September 14, 2012, the Board conducted a follow up inspection and
6 to obtain additional pharmacy records.

7 27. The inspector requested the dispensing reports of compounds identified during the
8 May 15, 2012 inspection which were found to have potency results outside acceptable potency
9 ranges for the compound.

10 28. A review of the compounding logs, laboratory testing results, and dispensing
11 reports for Tri-Mix (alprostadil-10mcg/papaverine-30mg/phentolamine-0.5mg) revealed
12 approximately 44 compounded prescriptions which were prepared as batch products from a non-
13 sterile source and found to be outside of expected potency ranges were dispensed to consumers.

14 29. The Board inspector also selected a sample of compounding logs for end-product
15 testing and requested the prescription dispensing history for those specific lots.

16 30. The records revealed that approximately 105 sterile injectable compounded
17 prescriptions prepared as batch products from a non-sterile source were dispensed to consumers
18 without first conducting end product sterility and pyrogen testing.

19 31. A sample of compounding worksheet records also revealed that Respondent failed
20 to document the manufacturer of each ingredient used to prepare approximately 15 compounds
21 for Tri-Mix, Nandrolone, Progesterone, Testosterone, Tri-Mix XL and Quad-Mix.

22 32. A written notice of non-compliance was given to Respondents Braddy and RX
23 Unlimited at the end of the inspection.

24 **II. February 13, 2013 Inspection**

25 33. On or about February 13, 2013, the Board conducted an inspection at Respondent
26 RX Unlimited, located at 6815 Noble Ave. #107, Van Nuys, CA 91404 after a complaint was
27 made by T.Corp. alleging that Respondents continued to compound large quantities of
28

1 hydroxyprogesterone caproate (HPC) injection outside the scope of traditional pharmacy
2 compounding.

3 34. Respondent Clifton Braddy was not present during the inspection. Pharmacist
4 N.P. was present and provided the documents requested during the inspection. At the conclusion
5 of the inspection, Respondent Braddy was notified that he was required to supplement the
6 documents collected during the inspection within 14 days. After review of all documents
7 provided at the inspection site, as well as those provided thereafter by Respondents, the following
8 findings were made.

9 35. Respondents' sterile compounding worksheets were reviewed and revealed that the
10 Respondents were compounding nandrolone deconoate 200mg/ml injection with a beyond the use
11 date of 180 days despite the Master Formula's estimated 90 days beyond the use date.
12 Respondents were unable to provide stability studies that supported the 180 days beyond the use
13 date for the nandrolone deconoate 200mg/ml.

14 36. Respondents' compounding logs revealed that they were compounding and
15 dispensing HPC injections outside of the scope of traditional pharmacy compounding practices in
16 that the HPC injections were commercially available in the marketplace and there was no specific
17 need for said drug. The records revealed that a total of six (6) prescriptions were filled from
18 January 1, 2012 through February 13, 2013 as follows: RX No. 100897, dispensed June 19,
19 2012, RX No. 100898, dispensed June 19, 2012, RX No. 100907, dispensed June 21, 2012, RX
20 No. 100907, dispensed September 5, 2012, RX No. 101765, dispensed November 27, 2012, and
21 RX No. 101765, dispensed December 28, 2012.

22 FIRST CAUSE FOR DISCIPLINE

23 (Misbranded Drugs)

24 37. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
25 action under section 4169 subdivision (a)(3) in conjunction with section 4342 in that inspections
26 conducted on or about May 15, 2012, and September 13, 2012, revealed that Respondents
27 purchased, traded, sold or transferred dangerous drugs that Respondents knew or should have
28

1 reasonably known were misbranded, as defined in section 11135 of the Health and Safety Code.
2 Complainant incorporates by reference paragraphs 17 – 32, as if fully set forth herein.

3 SECOND CAUSE FOR DISCIPLINE

4 (Sterile Compounding – Quality Assurance)

5 38. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
6 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1751.7,
7 subdivision (c) in that an inspection conducted on September 14, 2012, revealed that Respondents
8 did not test for sterility and pyrogen for each sterile injectable batch product prepared from a non-
9 sterile source prior to dispensing the product. Complainant incorporates by reference paragraphs
10 17 – 32, as if fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Records of Compounding Drug Products)

13 39. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
14 action under section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.3,
15 subdivision (a) (6) in that inspections conducted on or about May 15, 2012, and September 13,
16 2012, revealed that Respondents failed to identify the name of the manufacturer of each
17 ingredient of a compounded drug prior to dispensing the product. Complainant incorporates by
18 reference paragraphs 26 – 32, as if fully set forth herein.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Compounding Limitations and Requirements; Self Assessment)

21 40. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
22 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 Section 1735.2,
23 subdivision (h) in that the inspection on February 13, 2013, and the records thereafter provided,
24 revealed that Respondents had compounding worksheets for nandrolone deconoate 200/mg/ml
25 that showed a beyond the use date of 180 days despite a master formula estimated 90 days beyond
26 the use date. In addition, Respondents were unable to provide stability studies that supported the
27 beyond the use date of 180 days. Complainant incorporates by reference paragraphs 33 - 35, as if
28 fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Compounding Limitations)

3 41. Respondent RX Unlimited and Respondent Braddy are subject to disciplinary
4 action under Section 4300 in conjunction with Cal. Code of Regs., title 16 section 1735.2,
5 subdivision (c) in that the inspection on February 13, 2013, and the records thereafter provided,
6 revealed that Respondents were compounding and dispensing HPC injections in a form that is
7 essentially a copy of a product which is commercially available in the market place. Complainant
8 incorporates by reference paragraphs 33, 34 & 36, as if fully set forth herein.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

12 1. Revoking or suspending Pharmacist License Number RPH 45546 issued to Clifton
13 Eugene Braddy;

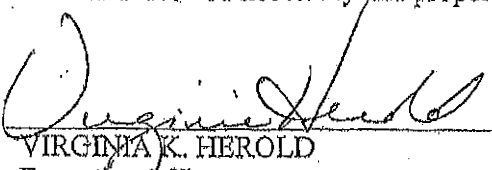
14 2. Revoking or suspending Sterile Compounding Permit Number LSC 99642 issued
15 to RX Unlimited LLC;

16 3. Revoking or suspending Pharmacy Permit Number PHY 50302, issued to RX
17 Unlimited LLC, dba RX Unlimited Pharmacy;

18 4. Ordering RX Unlimited LLC and Clifton Eugene Braddy, Pharmacist-in-Charge,
19 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3; and

21 5. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/3/15


24 VIRGINIA K. HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant